

RECEIVED

Nov 10 2020

SC Court of Appeals

Ward v. Ward

2019-002124

Volume IV

Pages 569-816

1 STATE OF SOUTH CAROLINA) COMMON PLEAS COURT
 2 COUNTY OF CHARLESTON) CASE NO. 2019CP1001932
 3 STEPHEN WARD CIBINIC,)
 4)
 5 Plaintiff,) Transcript of Record
 6 vs.) Date: Nov 15, 2019
 7 MARY K. WARD,)
 8 Defendant.)

9 * * * * *

10 B E F O R E:

11 The Honorable Jennifer McCoy

ORIGINAL

12
 13
 14
 15
 16
 17
 18
 19
 20 * * * * *

21
 22 Krista Nicole Carney, Stenographic
 23 Court Reporter, transcribed by a
 24 Stenographic Court Reporter
 25

1 A P P E A R A N C E S

2

3 REPRESENTING THE PLAINTIFF:

4 AMANDA BAILEY, ESQUIRE

5 Burr, Forman, McNair

6 Founders Centre, 2411 Oak Street

7 Suite 206

8 Myrtle Beach, SC 29577

9

10

11 REPRESENTING THE DEFENDANT:

12 JANE A. MCFADDIN, ESQUIRE

13 665 St. Andrews Blvd.

14 Charleston, S.C. 29407

15

16

17

18

19

20

21

22

23

24

25

INDEX

Page No.

PROCEEDINGS.....4

REPORTER'S CERTIFICATE.....28

INDEX OF EXHIBITS

(No exhibits were offered or marked for
identification.)

1 (These proceedings were had November
2 15, 2019, Charleston County Civil Court.)

3 THE CLERK: Next case is 2019-CP-01932.
4 This is Stephen Ward Cibinic versus Mary Ward.

5 THE COURT: Good morning. How are you
6 all.

7 All right. This is a probate appeal;
8 is that right?

9 MS. MCFADDIN: Yes, Your Honor.

10 THE COURT: And who is appealing this
11 Probate Court's order?

12 MS. BAILEY: Your Honor, Amanda Bailey.
13 And I am representing the personal representative
14 of the Estate of Stephen Day Ward, Stephanie
15 Cibinic, David Ward, and Brian Ward.

16 MS. MCFADDIN: And, Judge, I'm Jane
17 McFaddin. And I represent the respondent in this
18 appeal action.

19 THE COURT: All right. Ms. Bailey,
20 happy to hear from you.

21 MS. BAILEY: Thank you, Your Honor. I
22 have some research and case law, if I may provide
23 that to the Court.

24 THE COURT: Sure. Thank you.

25 MS. BAILEY: Your Honor, this is an

1 appeal from an order from the Probate Court that
2 granted the petitioner, Mary Ward, an admitted
3 spousal share of the Estate of the decedent,
4 Stephen Day Ward.

5 The petitioner was the decedents' 4th
6 wife. She was 88-years-old at the time of the
7 marriage. And they were married three years before
8 the decedent passed away. They had no children
9 together, but both had several adult children from
10 previous marriages.

11 The Probate Court in this case erred
12 because it failed to apply the law regarding the
13 omitted spousal share. And it erred because the
14 facts were undisputed, that Stephen Day Ward
15 intended to omit subsequent spouses from his Will.

16 There are three different ways in which
17 a surviving spouse can recover from his or her
18 decedent spouse's estate. One, is by request over
19 a Will. That did not occur in this case. Two, is
20 by timely asserting the right of an elective share.

21 Now, the right of elective share is a
22 right that every surviving spouse has. That is not
23 what's before the Court today. The right of
24 elective share is under 62-2-201. And that's under
25 Tab 3 in the research that I provided to the Court.

1 The elective share is a right every surviving
2 spouse has.

3 The third way to claim a portion of an
4 estate by a surviving spouse is through the omitted
5 spousal statute. And that's 62-2-301. That omitted
6 spousal statute is under Tab 2 of your notebook.

7 The omitted spousal statute is not a
8 right. Every surviving spouse does not have the
9 right to claim an omitted spousal share, rather a
10 petitioner who's claiming omitted spousal share is
11 required to meet specific elements of the statute
12 for the omitted spousal share and provide proof as
13 set forth in Green, Estate of Catrel (ph), which is
14 also provided for you under Tab 5 of your notebook,
15 Your Honor.

16 In this case the petitioner, Mary Ward,
17 was seeking to recover under the omitted spousal
18 share. She was not seeking to recover under the
19 Will or under the elective share. Neither of those
20 claims were asserted.

21 The petitioner failed to present any
22 evidence in this case, that the omission of her
23 from the decedent's Will was unintentional. To
24 claim under the omitted spousal share you're
25 required to prove four elements. One, that the

1 decedent's spouse executed the Will in question
2 prior to the marriage. Two, that the Will does not
3 provide for the surviving spouse. Three, that the
4 omission was unintentional. And, four, that the
5 decedent did not provide for the spousal of
6 transfers outside the Will.

7 Here is the first two elements of the
8 omitted spousal share statute are undisputed. The
9 decedent executed the Will prior to the marriage,
10 and the Will does not provide for the petitioner in
11 this case.

12 The remaining two elements were never
13 proved by the petitioner in this case. And what
14 occurred at trial -- and we've provided a record of
15 appeal to the Court. And, Your Honor, the record
16 on appeal in this case is some 700 pages.

17 This case proceeded through full trial.
18 And the petitioner presented her entire case in
19 chief in one page of the transcript. One full page
20 between Pages 354 and 355. When the petitioner
21 presented her case, the only evidence that was
22 presented was that the petitioner and decedent had
23 been married for 3 years at the time of the
24 decedent's death, that the petition was
25 88-years-old, and 20 years older than the decedent

1 at the time of the death. And at the time of the
2 marriage the petitioner owned her own home on
3 Seabrook Island during that marriage.

4 While this evidence would have been
5 sufficient to claim an elective share, this
6 evidence is completely insufficient to assert a
7 right of an omitted spousal share. In this case,
8 the probate judge erred in denying our motion for
9 an involuntary nonsuit at that time.

10 In addition, the probate judge erred in
11 finding that the evidence that the petitioner's
12 omission from the decedent's spouse was
13 unintentional.

14 The only evidence that was presented in
15 this case was that the decedent intentionally
16 drafted his Will, jointly with his previous wife,
17 to ensure that their mutual plan was not altered by
18 acts after the date of the Will.

19 The only evidence presented in this
20 case was that decedent intentionally drafted his
21 Will to omit subsequent spouses. This is based on
22 the four corners of the Will. And under Tab 8 of
23 your notebook is a copy of the Estate planning
24 documents, in which the Will is contained. The
25 Will is on Page 601 through 607 of the record.

1 There is -- incorporated by reference
2 in the Will an agreement for mutual Wills, which is
3 also in Tab 8 and contained in the record on 665
4 through 660.

5 Based on the four corners of the Will
6 and based on the extrinsic testimony that was
7 admitted, either over the objection of counsel or
8 without objection of opposing counsel, the Will was
9 drafted to include the express purpose of
10 intentionally omitting subsequent spouses and
11 intentionally preventing the parties from having
12 acts after the date of the Will alter their estate
13 plans.

14 The Will was irrevocable, pursuant to
15 its own terms, once the previous spouse passed
16 away. At the time that the decedent married the
17 petitioner in this case, the Will was irrevocable.
18 That's provided for by statute. And that 622 to
19 701, Tab 4 in your notebook, and also the case is
20 Pruitt v. Moss, which is Tab 7 in your notebook.

21 The only relevant evidence of intent,
22 outside the four corners of the Will itself, that
23 the Probate Court should consider is the evidence
24 of the decedent's intent at the time that he makes
25 the Will. That is set forth in Re Estate of Prylow

1 (ph), also the case of Holcomb versus Bank of
2 America in Tag 6 of your notebook.

3 The evidence related to intent is
4 important. It's relevant only at the time that he
5 makes the Will. Evidence that occurs subsequent to
6 the making of the Will that may evidenced some
7 decedent's secret intent is not relevant to the
8 determination of what was intended at the time the
9 decedent created the Will.

10 In this case, the Probate Court erred
11 in finding that the decedent's omission of a
12 petitioner was unintentional, because there is no
13 evidence that the omission was unintentional at the
14 time of the Will. The Probate Court erred in
15 considering -- in concluding, in making findings of
16 fact that actions that occurred several years after
17 the making of the Will were indicative of intent to
18 include the petitioner in the Will.

19 Specifically, the Probate Court held
20 that the decedent didn't ratify the Will. The
21 Probate Court made a specific finding of fact that
22 the decedent failed to ratify the Will.

23 Your Honor, the Probate Court in the
24 very same order found that that Will was in fact
25 the last Will and Testament of the decedent.

1 These two findings that the Will is the
2 last Will of the decedent, and a contrary finding
3 that the decedent failed to ratify the Will creates
4 a contradictory finding of fact. The fact that the
5 Will was a valid last Will, and the valid last of
6 the decedent is undisputed. It is un-appealed from
7 and it is the law of this case.

8 What is appealed is a finding that the
9 decedent did not ratify the Will. The Will was, in
10 fact, the last Will and Testament of the decedent.
11 The testimony that was presented to the Court over
12 and over again was that the decedent said to his
13 Trish Ernstron, to his children that nothing was
14 going to change in the Will as a result of his
15 marriage to the petitioner. Nothing was going to
16 change and that evidence was omitted over the
17 objection or without objection by the petitioner.

18 The Probate Court erred in making that
19 finding, that the Will was not ratified. The
20 Probate Court also erred in making a finding that
21 the decedent failed to condition his marriage on
22 the petitioner with a waiver of the right to
23 elective share.

24 First, the right to an elective share
25 was never presented to the Probate Court. A waiver

1 of the right to an elective share is neither
2 relevant, nor admissible related to evidence of the
3 omitted spousal share. Two entirely different
4 statutory issues. One is a right that a surviving
5 spouse has. One is a remedy a surviving spouse
6 has, if she proves four elements.

7 So a waiver of the right to elective
8 share is not relevant to a determination of the
9 omitted spousal share. The Probate Court failed --
10 erred in making that finding of fact and also erred
11 in determining that a failure to ratify and a
12 failure to condition a marriage on the waiver of
13 elective share with any evidence of the decedent's
14 intent to omit or not intent the petitioner from a
15 pervious Will. This evidence was well after the
16 Will was executed and is not relevant to a
17 determination of intent.

18 Your Honor, there is -- the procedural
19 history that occurred in this case was that there
20 was a trial. The Probate Court entered an order
21 that resulted in a finding that the petitioner was
22 entitled to omitted spousal share.

23 We filed a motion for reconsideration.
24 At that time, the Probate Court adopted almost all
25 of our findings of facts in our proposed order, but

1 three things. One, the Probate Court found that
2 the Will was not ratified. Two, the Probate Court
3 found that the decedent failed to condition his
4 marriage on a waiver of the right of an elective
5 share. And, three, the Probate Court found that
6 despite all the findings of fact that were adopted,
7 that the petitioner was entitled to an omitted
8 spousal share, regardless of the fact that there
9 was no evidence of the decedent's intent, other
10 than to admit subsequent spouses at the time of his
11 Will.

12 We filed a subsequent motion for
13 reconsideration at that time, which was denied.
14 Because a second order substantially changed the
15 first order. So we are here before you on an
16 appeal from the final order of the Probate Court
17 denying that motion for consideration. And we're
18 asking this Court to make the findings that the
19 Probate Court erred in applying the law,
20 erroneously applied the elective share statute as
21 opposed to the omitted spousal statute erred in
22 considering irrelevant evidence and erred in making
23 findings of fact related to the elective share and
24 the ratification of the Will.

25 We're asking this Court to reverse the

1 order of the Probate Court, and deny the
2 petitioner's petition for an omitted spousal share.
3 Thank you, Your Honor.

4 THE COURT: Yes, ma'am. Happy to hear
5 from you.

6 MS. MCFADDIN: Thank you, Judge. As a
7 preliminary procedural motion, I'm going to just
8 note our objection to any material in this binder
9 that's labeled Appellate's Reference Binder, Motion
10 Hearing, November 15th, 2019, Honorable Jennifer B.
11 McCoy. Anything in this binder that's not already
12 included in the record on appeal, I haven't had a
13 chance to review. So I don't know what's in this.
14 But if there's anything in this that is different
15 or in addition than what's already in the record on
16 appeal, we would object to that.

17 THE COURT: Okay. It appears that it's
18 just statutes and case law. I do see something in
19 the back. Is Tab 8 part of the record on appeal?

20 MS. BAILEY: Yes, Your Honor. Tab 8 is
21 the record on appeal.

22 THE COURT: Part of it, at least.

23 MS. BAILEY: Yes. It is the -- the
24 record of appeal starting on 519. It was
25 previously admitted.

1 THE COURT: Your objection is noted for
2 the record.

3 MS. MCFADDIN: Thank you, Judge.

4 And then beginning our argument, our
5 argument in response really has two parts. There's
6 one that's a very simple straightforward argument.
7 It's more of a procedural argument. But it's still
8 a very empathetic, important argument. The
9 appellants are here pursuant to their notice of
10 intent to appeal. And if the Judge doesn't have a
11 paper copy, I'm happy to offer one up.

12 THE COURT: Sure.

13 MS. MCFADDIN: This notice of intent to
14 appeal, which was filed with this Court on April
15 15th of this year specifically says that the
16 appellants filed this notice of intent to appeal
17 the order denying respondent's motion for
18 reconsideration of January 18th, 2019, or in the
19 Probate Court, dated April 7th, 2019. Received by
20 the undersigned on April 9th, 2019, a copy of which
21 is attached.

22 Now, what is attached to that notice of
23 intent to appeal is the order denying respondent's
24 motion for reconsideration by Judge Condon. And
25 that order is dated April 2nd, 2019.

1 It's our contention that under the
2 appellate rules this is the order that the
3 appellants are appealing. In their statement of
4 the issues on appeal and in their argument, and in
5 the over the 700 pages of their record of appeal,
6 there is no argument. There are no issues stated
7 appealing this order.

8 Judge Condon made three findings. He
9 made a finding that there was no necessity for a
10 hearing. He made a finding that this -- their
11 motion to reconsider would be considered as a Rule
12 59F motion. And he made a finding that after
13 review -- and I quote -- the Court finds the motion
14 raises no new argument and presents no new evidence
15 and denies the motion.

16 So there were three findings in this
17 order, but none of those findings and nothing about
18 this order is addressed in the appellants' appeal.
19 There are arguments that they have effectively
20 abandoned their appeal. It's not before the Court.
21 And all the rest of this is totally irrelevant to
22 the appeal that we were noticed.

23 Your Honor, that's especially important
24 because this action has been pending now for almost
25 3 years.

1 In January of 2017 on behalf of Mary
2 Ward, the surviving spouse of the decedent, Stephen
3 Ward, we filed a notice -- a petition to claim an
4 omitted spouse share.

5 The current appellants had filed, by my
6 count, some five actions in the Probate Court
7 contesting that petition, contesting that the
8 surviving spouse, Mary Ward, is entitled to any
9 share of Stephen Ward's Estate. Five times they
10 filed it, five times they've been rejected. All of
11 their arguments have been denied by the Probate
12 Court.

13 So, the notice of which order we are
14 appealing, which order they're appealing, which
15 order we need to respond to is very important. And
16 that's why our reply, appellate's replay
17 specifically addresses the Order in the notice of
18 intent to appeal that they filed.

19 THE COURT: Okay.

20 MS. MCFADDIN: As an alternative
21 response, Your Honor, I would like to address --
22 preserving our reply, preserving our position, I
23 would, with the Court's permission, like to address
24 the arguments that have been raised this morning by
25 Counsel.

1 One of the few points, which we would
2 have agreed with Counsel is clearly that the
3 original action that my client filed on behalf of
4 Mary Ward is pursuant to South Carolina Code
5 Section 62-2-301, the omitted spouse portion of the
6 South Carolina Code. The only requirements for an
7 omitted spouse, omitted surviving spouse to qualify
8 under this section is that they filed the petition
9 under the standard prescribed probate court form,
10 which my client has done. And that it be done
11 pursuant to paragraph C, which sets out the
12 relevant time periods.

13 The 2014 amendment to the statute only
14 added an additional clarification in paragraph C
15 regarding the time periods. There's no question
16 that Mary Ward filed the petition on the proper
17 form, with the probate court, on the proper probate
18 code form, and did it within -- properly within the
19 time period prescribed by the statute.

20 Mary Ward was the surviving spouse of
21 Stephen Ward. She is still alive today. After her
22 husband's death, she moved to Connecticut to be
23 closer to her daughter. And I have with me today
24 her appointed conservator and who is the named
25 agent for Mary Ward in this action.

1 The facts of the case are clear. The
2 only Will, last Will and Testament of Stephen Ward
3 that's been presented for probate is the one
4 that Mr. Ward apparently signed in 2005.

5 And in 2005 Mr. Ward was married
6 apparently to a Nancy Ward. Nancy Ward
7 subsequently died. And in 2013 Stephen Ward
8 married my client, Mary Ward. There is no evidence
9 and there's been no -- and, in fact, Counsel's
10 clients had confirmed, both in their testimony and
11 in their pleadings, that there's no further and no
12 subsequent last Will and Testament to the 2005
13 Will.

14 The appellants have made an extensive
15 argument extending to 5 actions from the Probate
16 Court in 700 pages of record on appeal, that the
17 estate planning documents that Stephen Ward and
18 Nancy Ward, his then wife, who I believe was his
19 3rd wife, executed in 2005, that were drafted by
20 the same law firm, McNair Law Firm. And actually
21 they brought the drafting attorney. They drafted
22 the documents and met with Stephen Ward at the
23 time. He testified that the McNair Law Firm did
24 prepare these estate planning documents. And it's
25 very extensive estate planning documents between

1 Stephen Ward, his Will and a trust, and Nancy Ward,
2 her Will and a trust.

3 And particular attention was drawn to
4 one of those documents, which in the record on
5 appeal is on Page 581. Well, actually begins --
6 yes, Page 581. It's labeled An Agreement for
7 Mutual Wills and Trust. Now, this is important
8 because they rely on that many times over and over,
9 that that document is combined with Stephen Ward's
10 last Will, because it made it to probate. And
11 between the two of them they indicate Steven Ward's
12 intent. And it's been our response from the
13 beginning that the Probate Court has found four or
14 five times that there is no way, through any
15 language, of any estate planning document that
16 Steven Ward in 2005, while married to Nancy Ward,
17 could intentionally omit Mary Ward as a surviving
18 spouse from his decedent's estate.

19 The facts confirm he was not married to
20 Mary Ward at the time. He couldn't be. He was
21 married to Nancy Ward at the time. He didn't even
22 know Mary Ward. There was no anticipation of
23 marriage. Mary Ward is nowhere mentioned in any of
24 these documents. She was totally not in the
25 picture until 2013 when they married.

1 It is absurd to think and to assume and
2 to argue that anything in those documents evidences
3 any kind of intentional omission of Mary Ward as a
4 surviving spouse from his estate planning.

5 Your Honor, even -- and I'm just
6 focussing on these documents because that seems to
7 be the entire graveling of their argument
8 evidencing some kind of intent to omit Mary Ward.

9 THE COURT: Whose burden is it at the
10 probate level to establish that?

11 MS. MCFADDIN: I think it's their
12 burden. It's anyone who's contesting the omitted
13 spouse share. It's not our burden to present.
14 Obviously, the Probate Court form only requires
15 what is required. One that -- to prove as we filed
16 a marriage license and as we filed proof that, one,
17 they were married. Two, that she's -- Stephen Ward
18 died and she survived and they were still married
19 at the time of death. And, three, that the Will
20 sent to probate makes no mention of her.

21 The omitted -- and just a further
22 point, even if they look to the estate planning
23 documents of Stephen Ward as a basis for what is
24 controlling, on Page 0582 of their own documents,
25 the record on appeal, under 4.2, 4.2.1 and 4.2.2,

1 it sets out what the parties agree to to do, in
2 case one of them, i.e., one of Stephen or Nancy
3 die, what the surviving of those two must do in
4 case they remarry in order to keep these estate
5 planning documents in full force.

6 In the case of our action, what is
7 relevant is 4.2.1. If I may quote from that -- or
8 beginning with 4.2. If he or she remarries after
9 the death of the predecessor, he or she will,
10 4.2.1, thereafter ratify his or her Will and Trust
11 in the form and with the provisions contained in
12 his or his Will and Trust hereto.

13 There are no documents presented of any
14 sort of ratification. The testimony of the
15 decedent's children, especially Ms. Cibinic, his
16 daughter, when she looked through his possessions
17 in his house after his death, looking for any
18 paperwork or subsequent documents, there was no
19 documentary proof that was ever discovered by them,
20 she said. The lawyer of the drafting attorney said
21 he never met with Mr. Ward after 2005 when they
22 executed the documents.

23 The McNair Firm continued to represent
24 the now appellants. There is no evidence presented
25 of any subsequent documents or drafting or

1 ratification or any sort of writing by Mr. Ward
2 after 2005, certainly not after 2013 when he
3 married Mary Ward.

4 But, Your Honor, over and above all of
5 that, here's the facts, also in the same documents
6 that they point to, and in Mr. Bluestein's
7 testimony, who is the drafted attorney, over and
8 over he says -- and the words he used are crystal
9 clear. He was crystal clear, Attorney Bluestein
10 and Stephen Ward to the attorney's estimation was
11 crystal clear about the ramifications of the estate
12 planning documents, what his responsibilities were,
13 what the effects of it were, what was going to
14 happen, and all these different things, including
15 not only under 4.2 is what the parties are supposed
16 to do to bring this in compliance with South
17 Carolina law regarding omitted spouse.

18 And I'm sure that Attorney Bluestein
19 with the McNair firm was well aware of the State of
20 South Carolina law, which, of course, would
21 supersede any estate planning documents.

22 And in the document itself, it says,
23 that they were crystal clear, that all of this
24 was -- in answering my question, Attorney Bluestein
25 said both he and Mr. Ward were crystal clear that

1 all these documents were made pursuant to and in
2 accordance with South Carolina law. And South
3 Carolina law, statutory law and case law, would be
4 the controlling facts in all this.

5 They knew the State of South Carolina
6 law, including both the omitted spouse statute,
7 62-2-301, which is right here in 4.2.1.

8 So these are very extensive estate
9 planning documents. I'm sure they were well
10 thought out. The lawyers said all of the parties
11 were crystal clear as to what they were doing. And
12 it's crystal clear on the face of the documents.
13 South Carolina law aside, one of them dies, the
14 surviving one remarries, then what they're supposed
15 to do to continue the force and effect of these
16 documents.

17 Mr. Ward did not do it. For whatever
18 reason, Mr. Ward did not take any further action
19 regarding his estate plan after 2005. It clearly
20 comes within the purview of the omitted spouse
21 statute. As the Probate Court has found 4 or 5
22 times already, Mary Ward is entitled to her full
23 share as an omitted spouse.

24 Thank you, Your Honor.

25 THE COURT: Yes, ma'am.

1 Do you have a response briefly?

2 MS. BAILEY: Briefly, Your Honor.

3 On the procedural motion, I would just
4 note for this Court that this was addressed in the
5 respondent's brief with respect to the South
6 Carolina Appellate Court Rules. This appeal is not
7 governed by those rules, as specified in the
8 statute for the appellate procedure for Probate
9 Court, 62-1-308, which is also included in your
10 binder.

11 So, Your Honor, we have appealed from
12 the final order of this Court, we have preserved
13 every single argument that we made from trial
14 forward, from the denial of the motion for
15 involuntary nonsuit to directed verdict motion, to
16 the posttrial motions. Every argument has been
17 preserved. And it is presented to this Court,
18 based on our statement -- or our notice to intent
19 to appeal and our statement of issues on appeal.
20 That's governed by the Probate Code for the
21 appellate procedure.

22 On the second matter, I did want to
23 touch base. We have not filed five separate
24 actions. We have only been defending against
25 petitioners' claim for omitted spouse. That's all

1 that we're here on, is a defense of -- petitioners'
2 claim for omitted spouse.

3 If the elements of omitted spouse
4 statute and case law are what the petitioners in
5 this case responded to say they are, which are to
6 file a petition within the irrelevant time period,
7 then there is zero difference between the omitted
8 spouse and the elective share.

9 That is not the law of South Carolina.
10 That is not the burden of proof in South Carolina,
11 based on the statute for omitted spousal share, and
12 which sets forth four elements that the petitioner
13 is required to prove. Their assertion related to
14 the applicable law and the burden of proof is
15 incorrect.

16 The section that they have cited to,
17 related to the agreement for mutual Wills and the
18 respondents on appeal have identified it as Section
19 4.2. There is testimony after testimony after
20 testimony that this Will was ratified. That
21 testimony is throughout the record. It was
22 provided for by Trish Ernstron. It's provided for
23 by Stephanie Cibinic. It was provided for by the
24 finding of fact by the Probate Judge that this Will
25 was in fact a valid last Will and Testament of the

1 deceased.

2 So the various significant testimony
3 that this Will was in fact ratified. The other
4 section, is Section 4.4, again, have nothing to do
5 with the omitted spousal share. It only relates to
6 the elective share. And what the Probate Court did
7 and what was erroneous that the Probate Court did
8 was combine the two statutory rights to relief.

9 And they're very distinct, very
10 separate, very different burdens, and very
11 different elements. One is a right. That's the
12 elective share. The other is omitted spousal share
13 that requires the petition to make affirmative
14 burdens of proof. One, including that she is
15 unintentionally omitted from the Will, which is
16 directly contrary to all the evidence that was
17 presented at trial.

18 Thank you, Your Honor.

19 THE COURT: Yes, ma'am. Obviously, I
20 will have to review the record in full and I'll get
21 you an order as soon as possible.

22 (The proceedings concluded.)

23

24

25

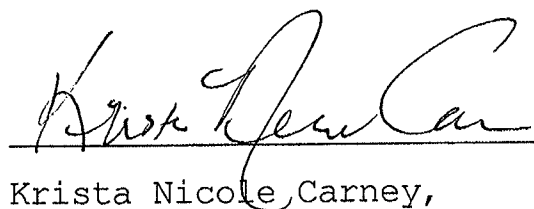
CERTIFICATE OF REPORTER

State of South Carolina)
)
County of Charleston)

I, Krista Nicole Carney, Official Court
Reporter for the Ninth Judicial Circuit of the
State of South Carolina do hereby certify that the
foregoing is a true, accurate and complete
Transcript of Record in the Court of Common Pleas
for Charleston County, South Carolina, on the 15th
of November, 2019.

I do further certify that I am neither of
kin, counsel, nor interest to any party hereto.

March 31, 2020



Krista Nicole Carney,
Stenographic Court Reporter

EXHIBITS

EXHIBIT 1

Attest: A True Copy
[Signature]
Deputy Clerk Probate Court
Charleston County, South Carolina

LAST WILL AND TESTAMENT OF STEPHEN D. WARD

Introductory Clause. I, STEPHEN D. WARD, a resident of and domiciled in the County of Charleston and State of South Carolina, do hereby make, publish and declare this to be my Last Will and Testament, hereby revoking all Wills and Codicils at any time heretofore made by me.

I am married to NANCY L. WARD.

I have five living children: STEPHANIE L. WARD; DAVID D. WARD; BRIAN C. WARD; STEPHEN A. WARD; and JEREMY W. WARD. My children STEPHEN A. WARD and JEREMY W. WARD and their respective issue shall not receive any benefits under this Will as they will be provided for by their mother with assets she received from me pursuant to our divorce. Their omission is intentional.

I have two living step-children: ELIZABETH A. DIEMER; and GARETT C. DIEMER.

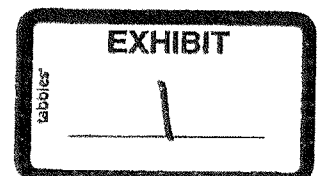
ITEM I

Direction to Pay Debts with Discretionary Refinancing by Executor. I direct that all my legally enforceable debts, secured and unsecured, be paid as soon as practicable after my death. I direct that my Executor may cause any debt to be carried, renewed and refinanced from time to time upon such terms and with such securities for its repayment as my Executor may deem advisable taking into consideration the best interest of the beneficiaries hereunder. If at the time of my death any of the real property herein devised is subject to any mortgage, I direct that the devisee taking such mortgaged property shall take it subject to such mortgage and that the devisee shall not be entitled to have the obligation secured thereby paid out of my general estate.

ITEM II

General Bequest of Personal and Household Effects With a Mandatory Memorandum. I give and bequeath all my personal and household effects of every kind including but not limited to furniture, appliances, furnishings, pictures, silverware, china, glass, books, jewelry, wearing apparel, boats, automobiles, and other vehicles, and all policies of fire, burglary, property damage, and other insurance on or in connection with the use of this property, as follows:

1. I may leave written memoranda disposing of certain items of my tangible personal property. Any such item of tangible personal property shall pass according to the terms of such memoranda in existence at the time of my death. If no such written memoranda is found or identified by my Executor within ninety (90) days after my Executor's qualification, it shall be conclusively presumed that there is no such memoranda and any subsequently discovered



memoranda shall be ineffective. Any property given and devised to a beneficiary who is not living at the time of my death and for whom no effective alternate provision has been made shall pass according to the provisions of the following paragraph, and not pursuant to any anti-lapse statute.

2. In default of such memoranda, or to the extent such memoranda do not completely or effectively dispose of such property, I give and bequeath the rest of my personal and household effects of every kind to my wife, NANCY L. WARD, for her lifetime, if she shall survive me. If my wife shall not survive me or upon my wife's death, I give and bequeath my personal and household effects that were acquired by me (prior to my marriage to my wife or by inheritance during my marriage to my wife) to my children STEPHANIE L. WARD, DAVID D. WARD and BRIAN C. WARD in approximately equal shares. If my wife shall not survive me or upon my wife's death, I give and bequeath my personal and household effects that were acquired by me and my wife during our marriage to STEPHANIE L. WARD, DAVID D. WARD, BRIAN C. WARD, ELIZABETH A. DIEMER and GARETT C. DIEMER, in five (5) approximately equal shares.

However, if any of the aforementioned individuals predecease the survivor of me and my wife, then the issue of the deceased individual surviving me and my wife shall take per stirpes the share their parent would have taken had he or she survived me and my wife. If any of STEPHANIE L. WARD, DAVID D. WARD or BRIAN C. WARD predecease the survivor of me and my wife and has no issue then living, the share of such predeceased individual shall be distributed per stirpes to my issue. If ELIZABETH A. DIEMER predeceases the survivor of me and my wife and has no issue then living, the shares of ELIZABETH A. DIEMER shall be distributed per stirpes to the issue of GARETT C. DIEMER, if any, and in default of issue to GARETT C. DIEMER. If GARETT C. DIEMER predeceases the survivor of me and my wife and has no issue then living, the shares of GARETT C. DIEMER shall be distributed per stirpes to the issue of ELIZABETH A. DIEMER, if any, and in default of issue to ELIZABETH A. DIEMER.

If any of the aforementioned individuals do not agree to the division of the property among themselves, my Executor shall make such division among them, the decision of my Executor to be in all respects binding upon them. If any beneficiary hereunder is a minor, my Executor may distribute such minor's share to such minor or for such minor's use to any person with whom such minor is residing or who has the care or control of such minor without further responsibility and the receipt of the person to whom it is distributed shall be a complete discharge of my Executor. The cost of packing and shipping such property shall be charged against my estate as an expense of administration.

ITEM III

Pour-Over Gift to Trustee of Testator's Inter Vivos Trust. I give, devise and bequeath all the rest, residue and remainder of my property of every kind and description (including lapsed legacies and devises), wherever situate and whether acquired before or after the execution of this Will, to the successor Trustee under that certain Trust Agreement between me as Settlor and me as Trustee executed prior to the execution of this Will on the 21st day of April, 2005. My Trustee shall add the property bequeathed and devised by this Item to the principal of

CSW

the above Trust and shall hold, administer and distribute the property in accordance with the provisions of the Trust Agreement, including any amendments thereto made before my death.

ITEM IV

Naming the Executor, Executor Succession, Executor's Fees and Other Matters. The provisions for naming the Executor, Executor succession, Executor's fees and other matters are set forth below:

1. **Naming an Individual Executor.** I hereby nominate, constitute and appoint as Executor of this my Last Will and Testament **NANCY L. WARD** and direct that she shall serve without bond.
2. **Naming Individual Successor or Substitute Executor.** If my individual Executor should fail to qualify as Executor hereunder, or for any reason should cease to act in such capacity, the successor or substitute Executor who shall also serve without bond shall be **DUDLEY M. WARD**.
3. **Final Succession If Individual Successor Executor Cannot Act.** If my individual successor Executor should fail to qualify as Executor hereunder, or for any reason should cease to act in such capacity, then the successor or substitute Executors who shall also serve without bond shall be **STEPHANIE L. WARD, DAVID D. WARD, and BRIAN C. WARD**. If any individual Executor named herein should fail to qualify as Executor hereunder, or for any reason should cease to act in such capacity, the remaining individual Executor(s) named herein shall continue to serve without a successor or substitute.
4. **Fee Schedule for Individual Executor.** For its services as Executor, my individual Executor shall receive no compensation but shall be entitled to reimbursement for reasonable expenses.
5. **Executor Voting Rights.** If there is more than one Executor serving, then the vote of the Executors for any action hereunder must be by majority action of the Executors. Provided, however, that if only two Executors shall be serving as co-Executors, then the Executors shall act with unanimity on all actions, unless the co-Executors shall have otherwise agreed in writing.
6. **Delegation Among Executors.** When there is more than one individual or entity serving as co-Executors, then any Executor may delegate to any other Executor the power to exercise any or all of the powers granted to the Executors in this Last Will and Testament, including those powers, which are discretionary, to the extent allowed by law. Any delegating Executor may revoke any such delegation with written notice to the other serving co-Executors. The delegation of any such power, as well as the revocation of any such delegation, shall be evidenced by an instrument in writing signed by the delegating co-Executor. As long as any such delegation is in effect, any of the delegated powers may be exercised by the Executor receiving such delegation with the same force and effect as if the delegating Executor had personally joined in the exercise of such power. Provided, however, that if such Executor, or co-

Law

Executor, shall also be a current beneficiary and such delegation shall be deemed to create in that Executor a right that shall be deemed to be a general power of appointment, then such individual Executor shall not be vested with such right to delegate such power.

ITEM V

Definition of Executor. Whenever the word "Executor" or any modifying or substituted pronoun therefor is used in this my Will, such words and respective pronouns shall include both the singular and the plural, the masculine, feminine and neuter gender thereof, and shall apply equally to the Executor named herein and to any successor or substitute Executor acting hereunder, and such successor or substitute Executor shall possess all the rights, powers and duties, authority and responsibility conferred upon the Executor originally named herein.

ITEM VI

Powers for Executor. By way of illustration and not of limitation and in addition to any inherent, implied or statutory powers granted to Executors generally, my Executor is specifically authorized and empowered with respect to any property, real or personal, at any time held under any provision of this my Will: to allot, allocate between principal and income, assign, borrow, buy, care for, collect, compromise claims, contract with respect to, continue any business of mine, convey, convert, deal with, dispose of, enter into, exchange, hold, improve, incorporate any business of mine, invest, lease, manage, mortgage, grant and exercise options with respect to, take possession of, pledge, receive, release, repair, sell, sue for, to make distributions or divisions in cash or in kind or partly in each without regard to the income tax basis of such asset, and in general, to exercise all the powers in the management of my Estate which any individual could exercise in the management of similar property owned in his or her own right, upon such terms and conditions as to my Executor may seem best, and to execute and deliver any and all instruments and to do all acts which my Executor may deem proper or necessary to carry out the purposes of this my Will, without being limited in any way by the specific grants of power made, and without the necessity of a court order.

ITEM VII

Provision for Executor to Act as Trustee for Beneficiary Under Age Twenty-One. If any share or property hereunder becomes distributable to a beneficiary who has not attained the age of Twenty-one (21) years or if any real property shall be devised to a person who has not attained the age of Twenty-one (21) years at the date of my death, then such share or property shall immediately vest in the beneficiary, but notwithstanding the provisions herein, my Executor acting as Trustee shall retain possession of the share or property in trust for the beneficiary until the beneficiary attains the age of Twenty-one (21), using so much of the net income and principal of the share or property as my Executor deems necessary to provide for the medical care, education, support and maintenance in reasonable comfort of the beneficiary, taking into consideration to the extent my Executor deems advisable any other income or resources of the beneficiary or his or her parents known to my Executor. Any income not so paid or applied shall be accumulated and added to principal. The beneficiary's share or property shall be paid over, distributed and conveyed to the beneficiary upon attaining age Twenty-one (21), or if he or she shall sooner die, to his or her executors or administrators. Whenever my Executor determines it appropriate to pay any money for the benefit of a beneficiary for whom a trust is created

Last Will and Testament of Stephen D. Ward

Page 4

CHARLESTON 257491v3

edw

hereunder, then the amounts shall be paid out by my Executor in such of the following ways as my Executor deems best: (1) directly to the beneficiary; (2) to the legally appointed guardian of the beneficiary; (3) to some relative or friend for the care, support and education of the beneficiary; (4) by my Executor using such amounts directly for the beneficiary's care, support and education; (5) to a custodian for the beneficiary under the Uniform Gifts or Transfers to Minors Act. My Executor as trustee shall have with respect to each share or property so retained all the powers and discretions conferred upon it as Executor.

ITEM VIII

Discretion Granted to Executor in Reference to Tax Matters. My Executor as the fiduciary of my estate shall have the discretion, but shall not be required when allocating receipts of my estate between income and principal, to make adjustments in the rights of any beneficiaries, or among the principal and income accounts to compensate for the consequences of any tax decision or election, or of any investment or administrative decision, that my Executor believes has had the effect, directly or indirectly, of preferring one beneficiary or group of beneficiaries over others; provided, however, my Executor shall not exercise its discretion in a manner which would cause the loss or reduction of the marital deduction as may be herein provided. In determining the state or federal estate and income tax liabilities of my estate, my Executor shall have discretion to select the valuation date and to determine whether any or all of the allowable administration expenses in my estate shall be used as state or federal estate tax deductions or as state or federal income tax deductions and shall have the discretion to file a joint income tax return with my wife. If my estate plan includes a revocable trust agreement and it contains directions to my Executor, I direct my Executor to follow the directions in such trust agreement.

ITEM IX

Definitions of Family. The following definitions shall be used to define the family:

1. **Definition of Children.** For purposes of this Will, my "children" mean STEPHANIE L. WARD, DAVID D. WARD and BRIAN C. WARD, but "children" does not mean STEPHEN A. WARD and JEREMY W. WARD. For purposes of this Will, "children" of my wife means ELIZABETH A. DIEMER and GARETT C. DIEMER. "Issue" and "descendants" mean the lawful blood descendants in any degree of the ancestor designated; however, it does not include STEPHEN A. WARD and JEREMY W. WARD or their respective issue.

2. **Definition of Per Stirpes.** The term "per stirpes" as used herein has the identical meaning as the term "taking by representation" as defined in the South Carolina Probate Code.

ITEM X

Definition of Words Relating to the Internal Revenue Code. As used herein, the words "gross estate," "adjusted gross estate," "taxable estate," "unified credit" ("unified credit" shall also mean "applicable credit amount"), "applicable exclusion amount," "state death tax credit," "maximum marital deduction," "marital deduction," "pass," and any other word or words which from the context in which it or they are used refer to the Internal Revenue Code shall have

Last Will and Testament of Stephen D. Ward

Page 5

CHARLESTON 257491-3

the same meaning as such words have for the purposes of applying the Internal Revenue Code to my estate. For purposes of this Will, my "available generation-skipping transfer exemption" means the generation-skipping transfer tax exemption provided in section 2631 of the Internal Revenue Code of 1986, as amended, in effect at the time of my death reduced by the aggregate of (1) the amount, if any, of my exemption allocated to lifetime transfers of mine by me or by operation of law, and (2) the amount, if any, I have specifically allocated to other property of my gross estate for federal estate tax purposes. For purposes of this Will if at the time of my death I have made gifts with an inclusion ratio of greater than zero for which the gift tax return due date has not expired (including extensions) and I have not yet filed a return, it shall be deemed that my generation-skipping transfer exemption has been allocated to these transfers to the extent necessary (and possible) to exempt the transfer(s) from generation-skipping transfer tax. Reference to sections of the Internal Revenue Code and to the Internal Revenue Code shall refer to the Internal Revenue Code amended to the date of my death.

ITEM XI

Statement by Testator of Intent Not to Exercise Power of Appointment. I hereby refrain from exercising any power of appointment that I may have at the time of my death.

ITEM XII

Simultaneous Death Provision Presuming Beneficiary Predeceases Testator. If any beneficiary and I should die under such circumstances as would make it doubtful whether the beneficiary or I died first, then it shall be conclusively presumed for the purposes of this Will that the beneficiary predeceased me.

ITEM XIII

Agreement for Mutual Wills and Trusts. The Agreement for Mutual Wills and Trusts dated as of even date herewith between STEPHEN D. WARD and NANCY L. WARD is incorporated by reference into this Last Will and Testament.

Testimonium, Attestation and Self-Proving Affidavit. I, STEPHEN D. WARD, the Testator, sign my name to this instrument this 21st day of April, 2005, and being first duly sworn, do hereby declare to the undersigned authority that I sign and execute this instrument as my last will and that I sign it willingly (or willingly direct another to sign for me), that I execute it as my free and voluntary act for the purposes therein expressed, and that I am eighteen years of age or older, of sound mind, and under no constraint or undue influence.

Stephen D. Ward
STEPHEN D. WARD

We, Jeanne A. Pusey and Madalena Cruz, the witnesses, sign our names to this instrument, being first duly sworn, and do hereby declare to the undersigned authority that the Testator signs and executes this instrument as his last will and that he signs it willingly (or willingly directs another to sign for him), and that each of us, in the presence and hearing of the Testator, and in the presence of each other, hereby signs this will as witness to the Testator's signing, and that to the best of our knowledge the Testator is eighteen years of age or older, of sound mind, and under no constraint or undue influence.

Jeanne A. Pusey
(Witness)
Madalena Cruz
(Witness)

The State of South Carolina

County of Charleston

Subscribed, sworn to, and acknowledged before me by STEPHEN D. WARD, the Testator, and subscribed and sworn to before me by Jeanne A. Pusey and Madalena Cruz, witnesses, this 21st day of April, 2005.

[Signature] (Seal)
Notary Public for South Carolina

My Commission Expires: July 24, 2012

EXHIBIT 2

NANCY DIEMER TRUST

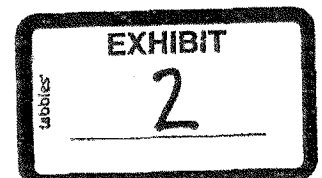
DATED APRIL 28, 1998

I, Nancy Diemer, of Oak Park, Illinois, declare that I have transferred to myself and now hold, as Trustee, the property described in the attached Schedule [it being my intention upon signing this instrument to immediately divest myself of title to the property, individually, and to vest title in me, as Trustee, without any separate act of assignment or transfer] and I declare that I will administer the scheduled property as Trustee, together with all other property added to the trust, upon the following trusts and conditions.

ARTICLE FIRST: (a) Trust name. This instrument and the trusts hereby evidenced shall be known as the "NANCY DIEMER TRUST DATED APRIL 28, 1998."

(b) Rules and definitions. For all purposes of this instrument: (1) the word "trust" refers, respectively, to the entire trust prior to the division of the whole into separate trusts and, thereafter, to each separate trust administered at the time of reference; (2) the word "Trustee" denotes the plural when two or more Trustees are acting at the time of reference, except where the context otherwise requires or specifically provides; (3) the term "support" includes maintenance of the beneficiary's health and accustomed manner of living, determined at the time the relevant power of the Trustee is exercised; (4) after my death no discretionary payment of trust principal may be made to or for any beneficiary that would discharge any legal obligation to support the beneficiary imposed on any Trustee, individually, or on any person who then has power [either alone or with others] to remove the Trustee; and (5) each reference to education includes, without limitation, primary through college education, postgraduate, professional and trade or vocational education. Titles of Articles and paragraphs are included for reference only and shall not be used to interpret this instrument.

(c) Trust additions. Any person may add other property or policies to any trust by delivery, conveyance or bequest or by causing the proceeds to be payable to the Trustee, but no additions may be made by any person



4/28/98

other than me without the Trustee's consent. At my death all references to any trust shall include all property to which the Trustee of that trust is entitled in any manner by reason of my death.

(d) My family I am unmarried at the time of the execution of this trust. I plan to marry Stephen D. Ward on May 23, 1998 and will then be known as Nancy Ward. I have two children now living, namely Elizabeth Ann Diemer and Garrett Carter Diemer. I intend by this instrument to provide for my disability and, upon my death, to provide for my children.

ARTICLE SECOND: Trust administration during my life. During my lifetime the Trustee shall administer the trust as follows:

(a) Payments to me. Subject to paragraph (b), the net income and principal of the trust shall be paid to me or others as I shall direct from time to time and, in the absence of directions from me to the contrary, shall be paid to me or for my benefit in such manner as the Trustee determines to be for my best interests.

(b) Payments during my disability. The provisions of paragraph (a) or of any direction given by me thereunder to the contrary notwithstanding, whenever the Trustee shall determine that I have become unable to give prompt and intelligent consideration to business matters, because of physical or mental disability or for any other reason, the Trustee shall pay to me or expend for my benefit such part or all of the net income and principal of the trust as the Trustee shall deem desirable to provide for my support, taking into account all other income and resources known to the Trustee that are readily available to me for such purposes, and the Trustee shall accumulate any undistributed net income and add it to principal.

ARTICLE THIRD: Distribution of the balance of the Trust after my death. Subject to paragraph (b) of ARTICLE FOURTH, upon my death the Trustee shall forthwith distribute the principal of the trust in equal shares to my children then living at the time of my death. If one of my children is not then living at the time of my death but has descendants then living at the time of my death, then the Trustee shall distribute the share the deceased child would have received, if living, to the child's descendants, then living at the time of my death, per stirpes and not per capita.

4/28/98

ARTICLE FOURTH: General trust administration provisions. The Trustee and beneficiaries of each trust shall be governed by the following:

(a) Status of beneficiaries. Unless otherwise specified in the exercise of a power of appointment granted hereunder, for all purposes of this instrument: (1) a person legally adopted shall be considered a natural child of the adopting parent; and (2) a person born out of wedlock shall not be considered a child of either parent, unless the child's parents marry each other.

(b) Trust termination postponed until age 25. Any portion of the principal of any trust becoming distributable under ARTICLE THIRD to any beneficiary under twenty-five (25) years of age shall vest in the beneficiary, but distribution of the portion shall be postponed until the beneficiary attains that age. In the meantime the Trustee shall administer the portion as a separate trust and shall pay to or expend for the benefit of the beneficiary such part or all of the net income and principal of the trust as the Trustee deems desirable to provide for the support and education of the beneficiary, taking into account all other resources known to the Trustee that are readily available to the beneficiary for such purposes, and the Trustee shall accumulate any undistributed net income and add it to principal.

(c) Early termination of small trust. At any time after my death when the value of the principal of any trust shall be less than FIFTY THOUSAND DOLLARS (\$50,000) and the Trustee shall determine that early distribution of the trust is desirable for any reason, the Trustee, without regard to the interests of the ultimate remaindermen [if any], may terminate the trust and distribute the principal to the beneficiary to whom the income from the trust then may be or is payable.

(d) Early termination to avoid rule against perpetuities. Unless sooner terminated in accordance with the other provisions of this instrument, any trust created hereunder or by appointment pursuant to this instrument shall cease and terminate upon the expiration of twenty-one (21) years after the death of the survivor of me and all other beneficiaries herein named or referred to living at the time of my death, whereupon the entire remaining principal of the trust shall be distributed

4/28/98

forthwith to the person or persons then entitled to receive the income therefrom.

(e) Payments to beneficiaries under disability; no assignment of trust interests. Payments or distributions of income or principal authorized or directed to be made to any beneficiary shall be made in person or upon the personal receipt of the beneficiary or, if the beneficiary directs, may be deposited in any bank account carried in the beneficiary's name or jointly with others; provided, however, that any payment or distribution to any beneficiary whom the Trustee making such payment or distribution believes to be incapable because of physical or mental disability, or for any other reason, of giving prompt and intelligent consideration to business matters may be made: (1) directly to the beneficiary, (2) to the legal representative of the beneficiary, (3) to any relative or friend of the beneficiary to be expended for the benefit of the beneficiary, (4) to a Custodian for the beneficiary under a Uniform Gifts [or Transfers] to Minors Act of any jurisdiction, or (5) by the Trustee expending the same for the benefit of the beneficiary, and the Trustee shall not be required to see to the application of any payments or distributions so made. No interest of any beneficiary shall be assignable in anticipation of payment or distribution either by the voluntary or involuntary act of the beneficiary or by operation of law or be liable in any way for the beneficiary's debts.

(f) Satisfaction of pecuniary amounts and fractional shares. In funding any pecuniary amount or fractional share trust or making any pecuniary amount or fractional share division or distribution to or between separate trusts or beneficiaries, the Trustee may: (1) divide, allocate or distribute in cash or in kind, or both; (2) select the property to be assigned to each trust or beneficiary; (3) assign undivided interests in any property to two or more trusts or beneficiaries; and (4) where fractional shares are concerned, allocate to each beneficiary or trust the required fractional share of each asset available to fund the share or assign to each beneficiary or trust the then value of its share by allocating to it any part or all [including disproportionate fractional interests] of any available asset. If property is allocated in kind to satisfy a pecuniary amount, or to satisfy the then value of a fractional share with disproportionate interests in the available assets, the property shall be valued at the time of allocation, as determined by the Trustee, and no adjustments shall be

4/28/98

made to compensate for any disproportionate allocation of unrealized gain or loss for income tax purposes.

(g) Commingling of separate trusts. The Trustee may combine any separate trusts administered under this instrument with each other, or with any trusts under other instruments which have similar terms and beneficiaries, for purposes of commingled investment and administration of the combined trusts, and the Trustee shall allocate all trust receipts and disbursements among the combined trusts proportionately.

(h) Principal and income allocations. The Trustee shall allocate receipts and expenses of any trust to or between income and principal in accordance with the rules of trust accounting law applicable thereto; provided, that (1) in any case where the Trustee concludes that there are no applicable rules, that the rules are ambiguous or that the application of the rules would alter the relative interests of the income and principal beneficiaries of the trust contrary to my intention hereunder, as determined by the Trustee, the Trustee may allocate the receipt or expense involved in such manner as the Trustee deems proper to carry out my intention and to fulfill the purposes of the trust; and (2) the Trustee may allocate any trust administration expenses [including, without limitation, accounting expenses, expenses of judicial proceedings and any regular or special compensation of any Trustee, investment counsel, attorney, accountant, custodian or other agent] all to income or all to principal, or partly to each, in such manner as the Trustee determines to be for the best interests of the beneficiaries, taking into account the nature of the trust assets, the trust interests benefited by the expense, the tax consequences and any other factors deemed relevant by the Trustee.

(i) General powers of Trustee; compensation. The Trustee shall have the following powers: (1) to invest and reinvest trust assets in any kind of property or undivided interests therein which the Trustee shall deem proper [including, without limitation, real estate, stocks, bonds, mortgages, debentures and shares or interests in investment companies, funds or trusts] without being restricted to investments as fixed by the laws of any jurisdiction; (2) to continue trust assets invested in any property received or acquired by the Trustee without obligation to sell all or any part thereof because not of a type or quality or constituting a diversification considered proper or wise for trust investments; (3) to hold

4/28/98

funds uninvested during any periods of unsettled financial conditions; (4) to purchase, sell, convey, assign or exchange any trust property and to grant and exercise options with respect to trust property; (5) to purchase property from, sell property to and otherwise deal with the fiduciary representing the estate or trust of any person, whether or not the Trustee is also acting as fiduciary for the estate or other trust; (6) to lease trust property for any time even extending beyond the term of any trust; (7) to insure, improve, repair, alter, partition, subdivide, grant easements or dedicate any trust property and to erect or raze improvements thereon; (8) to settle or abandon all claims and demands in favor of or against any trust; (9) to consent to the reorganization, consolidation or readjustment of the finances of any corporation; (10) to vote in person or issue proxies to others; (11) to borrow money from any lender, including any Trustee, individually, and to mortgage or pledge any trust property for any purpose deemed proper by the Trustee, including the purchase of bonds redeemable at more than market value for the payment of federal estate tax; (12) to employ attorneys, accountants, investment advisors and other agents [including persons who are associated with the Trustee in any business or profession], to rely and act upon the advice of any investment advisors or other agents without independent investigation, and to delegate to any one or more of them any of the Trustee's powers, discretionary or otherwise, for any purpose; and the Trustee shall not be liable for any loss that may result from following the advice, or for other acts, of any investment advisor or other agents unless the Trustee has failed to use due care in their selection; (13) to hold or register any property in the Trustee's own name or in the name of a nominee without disclosure of any fiduciary relationship; and (14) in addition to any powers conferred herein or by law, to do and perform all acts which the Trustee shall deem proper to carry out the purposes of each trust, it being my intention that the enumeration of particular powers shall not be construed as limiting the general powers intended to be granted to the Trustee. Each Trustee shall be paid reasonable compensation.

(j) Trust accounts; objections barred after 2 years; settlement of accounts before distribution. A statement showing all receipts and disbursements and the property comprising each trust shall be given at least annually to each beneficiary to whom the income from the trust then may be or is payable or to the beneficiary's representative under paragraph (k) of this Article. A majority in interest of the beneficiaries to

4/28/98

whom the income from any trust then may be or is payable, without liability to others, may approve any account of any acting or predecessor Trustee with respect to that trust and release the Trustee from liability for all matters covered by the account, which release shall bind all persons having any past, present or future interest in that trust. Each statement of account shall be deemed approved and the Trustee shall be deemed released by all beneficiaries having any past, present or future interest in the matters covered by the account unless objections to the account are filed with the Trustee within two (2) years after the account is mailed or delivered to the persons entitled thereto. Before distribution of any trust principal the Trustee shall have the right to require settlement of any open accounts of the trust from which the distribution is being made, either by the written agreement and release of all beneficiaries having any interest in the distribution or, if releases cannot be obtained, by court settlement of the open accounts. All of the Trustee's fees and expenses [including attorneys' fees] attributable to court approval of the Trustee's accounts shall be paid by the trust involved, but the trust shall not be liable if and to the extent the accounts are not approved. For all purposes of this paragraph and ARTICLE FIFTH, if more than one beneficiary is eligible to receive the same income at the time of reference, a "majority in interest" of those beneficiaries means a majority in number of the oldest generation of eligible beneficiaries.

(k) Persons to represent beneficiary during disability. If a beneficiary is under disability at the time of reference, the first of the following [in the order named] who is then living or acting and under no disability shall act for and represent the beneficiary to receive and review notices and accounts, approve or object to accounts, release Trustees from liability and appoint Trustees: the legal representative of the beneficiary's estate; the legal representative of the beneficiary's person; the person(s) having custody of the beneficiary; the beneficiary's spouse; or a majority of the adult children of the beneficiary. For all purposes of this paragraph and ARTICLE SECOND and ARTICLE FIFTH, any person shall be considered to be under "disability" if, at the time of reference: (1) the person is a minor under the law of his domicile or has been adjudicated an incompetent or disabled person or (2) two medical doctors familiar with the physical and mental condition of the person have certified in writing that the person is unable to give prompt and intelligent consideration to business matters and written notice of the determinations of disability has

4/28/98

been delivered to the person. Once established, disability will be deemed to continue until there is a like certification, or an adjudication, that the disability has ended.

(l) Undistributed income at beneficiary's death. Upon the death of any beneficiary all accrued but uncollected income, and all undistributed income received by the Trustee since the last regular income payment date, which would have been payable to the beneficiary had the beneficiary continued to live shall be payable as income to the beneficiary who shall next be entitled upon the death of the deceased beneficiary to receive the principal, or the income from the principal, from which the income was derived.

(m) Designation of "appointed Trustee." The term "appointed Trustee" means a Trustee acting pursuant to this paragraph. If at any time or times the Trustee other than an appointed Trustee determines that it is advisable to change the situs of any part or all of any trust or is unable or unwilling to act as Trustee with respect to any trust property, such Trustee may resign as Trustee with respect to any trust property and designate an appointed Trustee thereof, which appointed Trustee shall have and exercise such of the appointing Trustee's powers, discretions and titles and on such conditions as the appointing Trustee shall specify. At any time the appointed Trustee may be removed by the Trustee who may designate another as appointed Trustee or, in the absence of such appointment, shall again have and exercise all powers, discretions and titles theretofore vested in the appointed Trustee. Each appointed Trustee so designated may delegate any and all powers, discretions and authorities to the Trustee as agent.

(n) Liabilities and transfer of powers and property between Trustees. Unless otherwise provided in this instrument: (1) the legal title to all property of any trust shall remain vested in the Trustee of that trust from time to time acting hereunder without any act of conveyance or transfer to, by or from any succeeding or retiring Trustee; (2) all of the rights, powers and authorities, discretionary or otherwise, herein granted to the original Trustee of any trust shall descend to and vest in the acting Trustee of that trust; (3) any corporation which succeeds by merger, consolidation, purchase or other means to substantially all of the assets and business of any acting or nominated corporate Trustee shall also

4/28/98

succeed to the office of Trustee; (4) no Trustee shall ever be liable for any act or default of any other Trustee nor for any loss sustained through any error of judgment but shall only be liable for his own willful default; (5) no Trustee shall be required to give any bond or security or to render any periodic court accounting; (6) as used with reference to the Trustee, all words denoting number and gender shall be construed to denote the proper number and gender applicable to the Trustee acting at the time of reference with respect to the power or duty involved; (7) no person dealing with the Trustee shall be obliged to inquire into the Trustee's powers or to see to the application of any money or property delivered to the Trustee; and (8) a successor Trustee may accept the account rendered and the trust property delivered by the predecessor Trustee without review or liability.

(o) Co-Trustee provisions. If and while a corporate co-Trustee is acting and willing to do so, it shall have custody of all trust personal property and cash and may solely perform all ministerial duties. Any individual co-Trustee shall have the right at any time or times to delegate to a consenting co-Trustee any or all of the delegating Trustee's powers, authorities or duties, whether ministerial or discretionary in character, for any period of time or permanently by a writing delivered to the delegate.

(p) Insurance payable to Trustee. With respect to each policy of insurance upon my life subject to this instrument: (1) during my lifetime I reserve all rights and interests with respect to the policy, including without limitation the right to change the beneficiary, to borrow upon the policy from any lender [including any Trustee, individually] and to assign the policy as collateral; the Trustee shall only be responsible for the safekeeping of the policy but it may be returned to my custody and will remain subject to this instrument so long as the proceeds remain payable to the Trustee; and the Trustee shall not be obligated to pay any premiums or assessments upon the policy; and (2) upon my death only the proceeds of the policy due upon my death, after deduction of all loans and charges payable therefrom, shall be subject to this instrument and the Trustee shall take appropriate action to collect the policy, but shall not be obligated to engage in litigation unless indemnified to the Trustee's satisfaction.

(q) Payment of estate obligations by Trustee. Upon my death all estate obligations shall be paid out of the principal of my residuary

4/28/98

probate estate [if any] or the trust, or partly from each, as my fiduciary shall determine to be for the best interests of my beneficiaries, without abatement of any nonresiduary gifts under my will and without reimbursement or contribution from any person; provided, however, that the amount by which my death taxes are increased by assets subject to generation-skipping taxes, a power of appointment or a qualifying income interest for life shall be paid out of those assets; and provided, further, that (1) property which, except for this paragraph, would be exempt, excludable or nontaxable in determining my federal estate tax shall not be used to pay estate obligations and (2) all bonds owned by my probate estate or the Trustee which are redeemable at more than market value for the payment of federal estate tax shall first be used for that purpose. In this paragraph the term "estate obligations" means all of the following obligations payable by reason of my death: all taxes, including interest and penalties thereon ["my death taxes"], all fees and other expenses of administration attributable to probate and nonprobate property and all claims allowed against my estate [or if there is no probate administration of my estate, then all claims against my estate which the Trustee considers just and proper]; and in this paragraph the term "my fiduciary" means the legal representative of my probate estate [my "legal representative"] and the Trustee, acting together, or the Trustee, alone, if no legal representative is acting. Payment of estate obligations shall be made through my legal representative, if any, and the Trustee may distribute trust property to my legal representative at any time or times to fund estate obligations, without regard to when those obligations may be due. Nothing herein shall restrict the right of my fiduciary to litigate or settle any estate obligations and any action taken by my fiduciary to litigate, settle or pay estate obligations shall be binding and conclusive on all persons. The Trustee may accept as correct and act without liability on the basis of the determination by my legal representative as to any matter of fact or law material to compliance with this paragraph. My fiduciary may make such elections under the tax laws as my fiduciary shall deem advisable and no adjustment shall be made between principal and income or in the relative interests of the beneficiaries to compensate for the effect of such elections.

ARTICLE FIFTH: Successor Trustees. Any Trustee may resign as Trustee of any trust by giving ten (10) days prior written notice to all co-Trustees, if any, then acting, to all successor Trustees, if any, hereinafter

4/28/98

designated and to each beneficiary to whom income from that trust then may be or is payable. If I become unable to act as Trustee, then my brother, Robert A. Goelkel, currently residing in Park Ridge, Illinois, shall act as Trustee, or if he becomes unable to act then my fiancé, Stephen D. Ward, currently residing in Edina, Minnesota, shall act as successor Trustee. Any Trustee acting or designated to act pursuant to this instrument shall be deemed unable to act in the event of such Trustee's death, disability, refusal to act, removal or resignation [excluding, however, a resignation for purposes of paragraph (m) of ARTICLE FOURTH]. The provisions of this paragraph shall not apply to an appointed Trustee acting pursuant to paragraph (m) of ARTICLE FOURTH.

ARTICLE SIXTH: Governing law. Illinois law shall govern all questions concerning (a) the validity of this instrument and the trusts hereby created and (b) the interpretation of my intent as to the disposition of the trust property and all other questions relating to any trust, including all matters of trust administration.

ARTICLE SEVENTH: Right to amend or terminate. I reserve the right, exercisable at any time or times by a writing signed by me, to amend or terminate this instrument and the trusts hereby created, either in whole or in part, and to direct the disposition of any part or all of the trust property; provided, however, that the Trustee's powers, duties and liabilities shall not be substantially increased without the Trustee's consent.

FIRST. This instrument has been signed on the date specified in ARTICLE


NANCY DIEMER,
individually and as Trustee

NANCY DIEMER TRUST

SCHEDULE

1. Ten dollars (\$10.00)



NANCY DIEMER,
individually and as Trustee

EXHIBIT 3

LAST WILL AND TESTAMENT 2011 JUL -7 PM 12:02
OF
NANCY L. WARD

Introductory Clause. I, NANCY L. WARD, a resident of and domiciled in the County of Charleston and State of South Carolina, do hereby make, publish and declare this to be my Last Will and Testament, hereby revoking all Wills and Codicils at any time heretofore made by me.

I am married to STEPHEN D. WARD.

I have two living children: ELIZABETH A. DIEMER; and GARETT C. DIEMER.

I have five living step-children: STEPHANIE L. WARD; DAVID D. WARD; BRIAN C. WARD; STEPHEN A. WARD; and JEREMY W. WARD. My step-children STEPHEN A. WARD and JEREMY W. WARD and their respective issue shall not receive any benefits under this Will as they will be provided for by their mother with assets she received from my husband pursuant to their divorce. Their omission is intentional.

ITEM I

Direction to Pay Debts with Discretionary Refinancing by Executor. I direct that all my legally enforceable debts, secured and unsecured, be paid as soon as practicable after my death. I direct that my Executor may cause any debt to be carried, renewed and refinanced from time to time upon such terms and with such securities for its repayment as my Executor may deem advisable taking into consideration the best interest of the beneficiaries hereunder. If at the time of my death any of the real property herein devised is subject to any mortgage, I direct that the devisee taking such mortgaged property shall take it subject to such mortgage and that the devisee shall not be entitled to have the obligation secured thereby paid out of my general estate.

ITEM II

General Bequest of Personal and Household Effects With a Mandatory Memorandum. I give and bequeath all my personal and household effects of every kind including but not limited to furniture, appliances, furnishings, pictures, silverware, china, glass, books, jewelry, wearing apparel, boats, automobiles, and other vehicles, and all policies of fire, burglary, property damage, and other insurance on or in connection with the use of this property, as follows:

1. I may leave written memoranda disposing of certain items of my tangible personal property. Any such item of tangible personal property shall pass according to the terms of such memoranda in existence at the time of my death. If no such written memoranda is found or identified by my Executor within ninety (90) days after my Executor's qualification, it shall be conclusively presumed that there is no such memoranda and any subsequently discovered



memoranda shall be ineffective. Any property given and devised to a beneficiary who is not living at the time of my death and for whom no effective alternate provision has been made shall pass according to the provisions of the following paragraph, and not pursuant to any anti-lapse statute.

2. In default of such memoranda, or to the extent such memoranda do not completely or effectively dispose of such property, I give and bequeath the rest of my personal and household effects of every kind to my husband, **STEPHEN D. WARD**, for his lifetime, if he shall survive me. If my husband shall not survive me or upon my husband's death, I give and bequeath my personal and household effects that were acquired by me (prior to my marriage to my husband or by inheritance during my marriage to my husband) to my children **ELIZABETH A. DIEMER** and **GARRET C. DIEMER** in approximately equal shares. If my husband shall not survive me or upon my husband's death, I give and bequeath my personal and household effects that were acquired by me and my husband during our marriage to **STEPHANIE L. WARD**, **DAVID D. WARD**, **BRIAN C. WARD**, **ELIZABETH A. DIEMER** and **GARETT C. DIEMER**, in five (5) approximately equal shares.

However, if any of the aforementioned individuals predecease the survivor of me and my husband, then the issue of the deceased individual surviving me and my husband shall take per stirpes the share their parent would have taken had he or she survived me and my husband. If any of **STEPHANIE L. WARD**, **DAVID D. WARD** or **BRIAN C. WARD** predecease the survivor of me and my husband and has no issue then living, the share of such predeceased individual shall be distributed per stirpes to my husband's issue. If **ELIZABETH A. DIEMER** predeceases the survivor of me and my husband and has no issue then living, the shares of **ELIZABETH A. DIEMER** shall be distributed per stirpes to the issue of **GARETT C. DIEMER**, if any, and in default of issue to **GARETT C. DIEMER**. If **GARETT C. DIEMER** predeceases the survivor of me and my husband and has no issue then living, the shares of **GARETT C. DIEMER** shall be distributed per stirpes to the issue of **ELIZABETH A. DIEMER**, if any, and in default of issue to **ELIZABETH A. DIEMER**.

If any of the aforementioned individuals do not agree to the division of the property among themselves, my Executor shall make such division among them, the decision of my Executor to be in all respects binding upon them. If any beneficiary hereunder is a minor, my Executor may distribute such minor's share to such minor or for such minor's use to any person with whom such minor is residing or who has the care or control of such minor without further responsibility and the receipt of the person to whom it is distributed shall be a complete discharge of my Executor. The cost of packing and shipping such property shall be charged against my estate as an expense of administration.

ITEM III

Pour-Over Gift to Trustee of Testatrix's Inter Vivos Trust. I give, devise and bequeath all the rest, residue and remainder of my property of every kind and description (including lapsed legacies and devises), wherever situate and whether acquired before or after the execution of this Will, to the successor Trustee under the Nancy Diemer Trust Dated April 28, 1998 between me as Settlor and me as Trustee executed prior to the execution of this Will, as amended by the First Amendment and Restatement of Trust Agreement dated as of even date

Handwritten initials

herewith. My Trustee shall add the property bequeathed and devised by this Item to the principal of the above Trust and shall hold, administer and distribute the property in accordance with the provisions of the Trust Agreement, including any amendments thereto made before my death.

ITEM IV

Naming the Executor, Executor Succession, Executor's Fees and Other Matters. The provisions for naming the Executor, Executor succession, Executor's fees and other matters are set forth below:

1. **Naming an Individual Executor.** I hereby nominate, constitute and appoint as Executor of this my Last Will and Testament **STEPHEN D. WARD** and direct that he shall serve without bond.

2. **Naming Individual Successor or Substitute Executor.** If my individual Executor should fail to qualify as Executor hereunder, or for any reason should cease to act in such capacity, the successor or substitute Executor who shall also serve without bond shall be **ROBERT A. GOELKEL**.

3. **Final Succession If Individual Successor Executor Cannot Act.** If my individual successor Executor should fail to qualify as Executor hereunder, or for any reason should cease to act in such capacity, then the successor or substitute Executors who shall also serve without bond shall be **ELIZABETH A. DIEMER** and **GARETT C. DIEMER**. If any individual Executor named herein should fail to qualify as Executor hereunder, or for any reason should cease to act in such capacity, the remaining individual Executor named herein shall continue to serve without a successor or substitute.

4. **Fee Schedule for Individual Executor.** For its services as Executor, my individual Executor shall receive no compensation but shall be entitled to reimbursement for reasonable expenses.

5. **Executor Voting Rights.** If there is more than one Executor serving, then the vote of the Executors for any action hereunder must be by majority action of the Executors. Provided, however, that if only two Executors shall be serving as co-Executors, then the Executors shall act with unanimity on all actions, unless the co-Executors shall have otherwise agreed in writing.

6. **Delegation Among Executors.** When there is more than one individual or entity serving as co-Executors, then any Executor may delegate to any other Executor the power to exercise any or all of the powers granted to the Executors in this Last Will and Testament, including those powers, which are discretionary, to the extent allowed by law. Any delegating Executor may revoke any such delegation with written notice to the other serving co-Executors. The delegation of any such power, as well as the revocation of any such delegation, shall be evidenced by an instrument in writing signed by the delegating co-Executor. As long as any such delegation is in effect, any of the delegated powers may be exercised by the Executor receiving such delegation with the same force and effect as if the delegating Executor had personally joined in the exercise of such power. Provided, however, that if such Executor, or co-

7/11

Executor, shall also be a current beneficiary and such delegation shall be deemed to create in that Executor a right that shall be deemed to be a general power of appointment, then such individual Executor shall not be vested with such right to delegate such power.

ITEM V

Definition of Executor. Whenever the word "Executor" or any modifying or substituted pronoun therefor is used in this my Will, such words and respective pronouns shall include both the singular and the plural, the masculine, feminine and neuter gender thereof, and shall apply equally to the Executor named herein and to any successor or substitute Executor acting hereunder, and such successor or substitute Executor shall possess all the rights, powers and duties, authority and responsibility conferred upon the Executor originally named herein.

ITEM VI

Powers for Executor. By way of illustration and not of limitation and in addition to any inherent, implied or statutory powers granted to Executors generally, my Executor is specifically authorized and empowered with respect to any property, real or personal, at any time held under any provision of this my Will: to allot, allocate between principal and income, assign, borrow, buy, care for, collect, compromise claims, contract with respect to, continue any business of mine, convey, convert, deal with, dispose of, enter into, exchange, hold, improve, incorporate any business of mine, invest, lease, manage, mortgage, grant and exercise options with respect to, take possession of, pledge, receive, release, repair, sell, sue for, to make distributions or divisions in cash or in kind or partly in each without regard to the income tax basis of such asset, and in general, to exercise all the powers in the management of my Estate which any individual could exercise in the management of similar property owned in his or her own right, upon such terms and conditions as to my Executor may seem best, and to execute and deliver any and all instruments and to do all acts which my Executor may deem proper or necessary to carry out the purposes of this my Will, without being limited in any way by the specific grants of power made, and without the necessity of a court order.

ITEM VII

Provision for Executor to Act as Trustee for Beneficiary Under Age Twenty-One. If any share or property hereunder becomes distributable to a beneficiary who has not attained the age of Twenty-one (21) years or if any real property shall be devised to a person who has not attained the age of Twenty-one (21) years at the date of my death, then such share or property shall immediately vest in the beneficiary, but notwithstanding the provisions herein, my Executor acting as Trustee shall retain possession of the share or property in trust for the beneficiary until the beneficiary attains the age of Twenty-one (21), using so much of the net income and principal of the share or property as my Executor deems necessary to provide for the medical care, education, support and maintenance in reasonable comfort of the beneficiary, taking into consideration to the extent my Executor deems advisable any other income or resources of the beneficiary or his or her parents known to my Executor. Any income not so paid or applied shall be accumulated and added to principal. The beneficiary's share or property shall be paid over, distributed and conveyed to the beneficiary upon attaining age Twenty-one (21), or if he or she shall sooner die, to his or her executors or administrators. Whenever my Executor determines it

appropriate to pay any money for the benefit of a beneficiary for whom a trust is created hereunder, then the amounts shall be paid out by my Executor in such of the following ways as my Executor deems best: (1) directly to the beneficiary; (2) to the legally appointed guardian of the beneficiary; (3) to some relative or friend for the care, support and education of the beneficiary; (4) by my Executor using such amounts directly for the beneficiary's care, support and education; (5) to a custodian for the beneficiary under the Uniform Gifts or Transfers to Minors Act. My Executor as trustee shall have with respect to each share or property so retained all the powers and discretions conferred upon it as Executor.

ITEM VIII

Discretion Granted to Executor in Reference to Tax Matters. My Executor as the fiduciary of my estate shall have the discretion, but shall not be required when allocating receipts of my estate between income and principal, to make adjustments in the rights of any beneficiaries, or among the principal and income accounts to compensate for the consequences of any tax decision or election, or of any investment or administrative decision, that my Executor believes has had the effect, directly or indirectly, of preferring one beneficiary or group of beneficiaries over others; provided, however, my Executor shall not exercise its discretion in a manner which would cause the loss or reduction of the marital deduction as may be herein provided. In determining the state or federal estate and income tax liabilities of my estate, my Executor shall have discretion to select the valuation date and to determine whether any or all of the allowable administration expenses in my estate shall be used as state or federal estate tax deductions or as state or federal income tax deductions and shall have the discretion to file a joint income tax return with my husband. If my estate plan includes a revocable trust agreement and it contains directions to my Executor, I direct my Executor to follow the directions in such trust agreement.

ITEM IX

Definitions of Family. The following definitions shall be used to define the family:

1. **Definition of Children.** For purposes of this Will, my "children" mean ELIZABETH A. DIEMER and GARETT C. DIEMER. For purposes of this Will, "children" of my husband means STEPHANIE L. WARD, DAVID D. WARD and BRIAN C. WARD, but "children" does not mean STEPHEN A. WARD and JEREMY W. WARD. "Issue" and "descendants" mean the lawful blood descendants in any degree of the ancestor designated; however, it does not include STEPHEN A. WARD and JEREMY W. WARD or their respective issue.

2. **Definition of Per Stirpes.** The term "per stirpes" as used herein has the identical meaning as the term "taking by representation" as defined in the South Carolina Probate Code.

ITEM X

Definition of Words Relating to the Internal Revenue Code. As used herein, the words "gross estate," "adjusted gross estate," "taxable estate," "unified credit" ("unified credit" shall also mean "applicable credit amount"), "applicable exclusion amount," "state death tax credit," "maximum marital deduction," "marital deduction," "pass," and any other word or words

which from the context in which it or they are used refer to the Internal Revenue Code shall have the same meaning as such words have for the purposes of applying the Internal Revenue Code to my estate. For purposes of this Will, my "available generation-skipping transfer exemption" means the generation-skipping transfer tax exemption provided in section 2631 of the Internal Revenue Code of 1986, as amended, in effect at the time of my death reduced by the aggregate of (1) the amount, if any, of my exemption allocated to lifetime transfers of mine by me or by operation of law, and (2) the amount, if any, I have specifically allocated to other property of my gross estate for federal estate tax purposes. For purposes of this Will if at the time of my death I have made gifts with an inclusion ratio of greater than zero for which the gift tax return due date has not expired (including extensions) and I have not yet filed a return, it shall be deemed that my generation-skipping transfer exemption has been allocated to these transfers to the extent necessary (and possible) to exempt the transfer(s) from generation-skipping transfer tax. Reference to sections of the Internal Revenue Code and to the Internal Revenue Code shall refer to the Internal Revenue Code amended to the date of my death.

ITEM XI

Statement by Testatrix of Intent Not to Exercise Power of Appointment. I hereby refrain from exercising any power of appointment that I may have at the time of my death.

ITEM XII

Simultaneous Death Provision Presuming Beneficiary Predeceases Testatrix. If any beneficiary and I should die under such circumstances as would make it doubtful whether the beneficiary or I died first, then it shall be conclusively presumed for the purposes of this Will that the beneficiary predeceased me.

ITEM XIII

Agreement For Mutual Wills and Trusts. The Agreement for Mutual Wills and Trusts dated as of even date herewith between STEPHEN D. WARD and NANCY L. WARD is incorporated by reference into this Last Will and Testament.

Testimonium, Attestation and Self-Proving Affidavit. I, NANCY L. WARD, the Testatrix, sign my name to this instrument this 21st day of April, 2005, and being first duly sworn, do hereby declare to the undersigned authority that I sign and execute this instrument as my last will and that I sign it willingly (or willingly direct another to sign for me), that I execute it as my free and voluntary act for the purposes therein expressed, and that I am eighteen years of age or older, of sound mind, and under no constraint or undue influence.

Nancy L. Ward
NANCY L. WARD

We, Jeanne A. Pusey and Magdalena Cruz, the witnesses, sign our names to this instrument, being first duly sworn, and do hereby declare to the undersigned authority that the Testatrix signs and executes this instrument as her last will and that she signs it willingly (or willingly directs another to sign for her), and that each of us, in the presence and hearing of the Testatrix, and in the presence of each other, hereby signs this will as witness to the Testatrix's signing, and that to the best of our knowledge the Testatrix is eighteen years of age or older, of sound mind, and under no constraint or undue influence.

Jeanne A. Pusey
(Witness)
Magdalena Cruz
(Witness)

The State of South Carolina

County of Charleston

Subscribed, sworn to, and acknowledged before me by NANCY L. WARD, the Testatrix, and subscribed and sworn to before me by Jeanne A. Pusey and Magdalena Cruz witnesses, this 21st day of April, 2005.

[Signature] (Seal)
Notary Public for South Carolina

My Commission Expires: July 24, 2012

EXHIBIT 4

TRUST AGREEMENT OF STEPHEN D. WARD

Introductory Clause. This Trust Agreement of STEPHEN D. WARD made this 21st day of April, 2005, between STEPHEN D. WARD, hereinafter referred to as the Settlor and STEPHEN D. WARD, hereinafter referred to as the Trustee.

The Settlor is married to NANCY L. WARD and has five living children: STEPHANIE L. WARD, DAVID D. WARD, BRIAN C. WARD, STEPHEN A. WARD and JEREMY W. WARD. The Settlor's children STEPHEN A. WARD and JEREMY W. WARD and their respective issue shall not receive any benefits under this Trust Agreement as they will be provided for by their mother with assets she received from the Settlor pursuant to their divorce. Their omission is intentional.

The Settlor has two living step-children: ELIZABETH A. DIEMER and GARETT C. DIEMER.

ARTICLE I

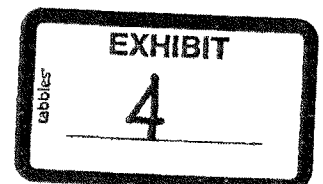
Trustee Succession if Settlor Dies or Becomes Incapacitated. If the Settlor dies or is adjudicated to be incompetent or in the event that the Settlor is not adjudicated incompetent, but by reason of illness or mental or physical disability is, in the opinion of two licensed physicians, unable to properly handle the Settlor's own affairs, then and in that event the Trustee named below shall immediately become the Trustee under this Trust Agreement. The Settlor names the following as successor Trustee:

NANCY L. WARD

Third parties may rely on an affidavit by the Trustee named above stating that the successor Trustee is now acting as Trustee hereunder

ARTICLE II

Description of Property Transferred. The Settlor has paid over, assigned, granted, conveyed, transferred and delivered, and by this Agreement does hereby pay over, assign, grant, convey, transfer and deliver unto the Trustee certain property, and has caused or will cause the Trustee to be designated as beneficiary of certain life insurance policies. These insurance policies, and any other insurance policies that may be delivered to the Trustee hereunder or under which the Trustee may be designated as beneficiary, the proceeds of all such policies being payable to the Trustee, and any other property that may be received or which has been received by the Trustee hereunder, as invested and reinvested (hereinafter referred to as the "Trust Estate"), shall be held, administered and distributed by the Trustee as hereinafter set forth.



ARTICLE III

Rights of Settlor and Trustee in Insurance Policies. During the Settlor's lifetime, the Settlor shall have all rights under any life insurance policies payable to the Trustee, including the right to change the beneficiary, to receive any dividends or other earnings of such policies without accountability therefor to the Trustee or any beneficiary hereunder, and may assign any policies to any lender, including the Trustee, as security for any loan to the Settlor or any other person; and the Trustee shall have no responsibility with respect to any policies, for the payment of premiums or otherwise, except to hold any policies received by the Trustee in safekeeping and to deliver them upon the Settlor's written request and upon the payment to the Trustee of reasonable compensation for services. The rights of any assignee of any policy shall be superior to the rights of the Trustee. If any policy is surrendered or if the beneficiary of any policy is changed, this trust shall be revoked with respect to such policy. However, no revocation of the trust with respect to any policy, whether pursuant to the provisions of the preceding sentence or otherwise, shall be effective unless the surrender or change in beneficiary of the policy is accepted by the insurance company. Upon the death of the insured under any policy held by or known to, and payable to, the Trustee, or upon the occurrence of some event prior to the death of the Settlor that matures any such policy, the Trustee, in its discretion, either may collect the net proceeds and hold them as part of the principal of the Trust Estate, or may exercise any optional method of settlement available to it, and the Trustee shall deliver any policies on the Settlor's life held by it and payable to any other beneficiaries as those beneficiaries may direct. Payment to, and the receipt of, the Trustee shall be a full discharge of the liability of any insurance company, which need not take notice of this agreement or see to the application of any payment. The Trustee need not engage in litigation to enforce payment of any policy without indemnification satisfactory to it for any resulting expenses.

ARTICLE IV

Provisions for Settlor During Lifetime. The Trustee shall hold, manage, invest and reinvest the Trust Estate (if any requires such management and investment) and shall collect the income, if any, therefrom and shall dispose of the net income and principal as follows:

1. During the lifetime of the Settlor, the Trustee shall pay to or apply for the benefit of the Settlor all the net income from this Trust.
2. During the lifetime of the Settlor, the Trustee may pay to or apply for the benefit of the Settlor such sums from the principal of this Trust as in its sole discretion shall be necessary or advisable from time to time for the medical care, education, support and maintenance in reasonable comfort of the Settlor, taking into consideration to the extent the Trustee deems advisable, any other income or resources of the Settlor known to the Trustee.
3. During the Settlor's lifetime and in the event that the Settlor is adjudicated to be incompetent or in the event that the Settlor is not adjudicated incompetent, but by reason of illness or mental or physical disability is, in the opinion of the Trustee, unable to properly handle the Settlor's own affairs, then and in that event the Trustee shall have the authorization to engage in additional estate planning to reduce the expected gift and estate tax liability as well as provide for additional resources for family transfers and, if consistent with the Settlor's desires,

charitable purposes. The estate planning, which is specifically authorized, may include the design, implementation, and funding of techniques such as limited partnerships, limited liability companies, lifetime gifts and transfers, qualified personal residence trusts, charitable trusts, family foundations, and other trusts and techniques designed to reduce the total estate and gift taxes anticipated to be paid by the Settlor and the Settlor's estate to increase the expected benefit to the Settlor's family, beneficiaries, and charities, if any.

4. During the Settlor's lifetime and in the event that the Settlor is adjudicated to be incompetent or in the event that the Settlor is not adjudicated incompetent, but by reason of illness or mental or physical disability is, in the opinion of the Trustee, unable to properly handle the Settlor's own affairs, then and in that event the Trustee shall have the authorization to (but shall not be required to) make gifts equal to or in excess of the annual gift tax exclusion to the Settlor's children and their issue, and their respective spouses, if appropriate, and in such amounts and upon such terms and conditions as the Trustee, in the Trustee's discretion, shall determine.

ARTICLE V

Settlor's Rights to Amend, Change or Revoke the Trust Agreement. Except as provided for in the AGREEMENT FOR MUTUAL WILLS AND TRUSTS, dated as of even date herewith and entered into between the Settlor and the Settlor's wife, NANCY L. WARD, the Settlor may, by signed instruments delivered to the Trustee during the Settlor's life: (1) withdraw property from this Trust in any amount and at any time upon giving reasonable notice in writing to the Trustee; (2) add other property to the Trust; (3) change the beneficiaries, their respective shares and the plan of distribution; (4) amend this Trust Agreement in any other respect; (5) revoke this Trust in its entirety or any provision therein; provided, however, the duties or responsibilities of the Trustee shall not be enlarged without the Trustee's consent nor without satisfactory adjustment of the Trustee's compensation.

ARTICLE VI

Discretionary Provisions for Trustee to Deal with Settlor's Estate and Make Payment of Debts and Taxes. After the Settlor's death, the Trustee, if in its discretion it deems it advisable, may pay all or any part of the Settlor's funeral expenses, legally enforceable claims against the Settlor or the Settlor's estate, reasonable expenses of administration of the Settlor's estate, any allowances by court order to those dependent upon the Settlor, any estate, inheritance, succession, death or similar taxes payable by reason of the Settlor's death, together with any interest thereon or other additions thereto, without reimbursement from the Settlor's executors or administrators, from any beneficiary of insurance upon the Settlor's life, or from any other person. All such payments, except of interest, shall be charged generally against the principal of the Trust Estate includable in the Settlor's estate for Federal estate tax purposes and any interest so paid shall be charged generally against the income thereof; provided, however, any such payments of estate, inheritance, succession, death or similar taxes (except generation-skipping transfer taxes) shall be charged against the principal constituting the Ward Family Trust and any interest so paid shall be charged against the income thereof. If such share or trust was created as a fraction, then such taxes thus paid shall reduce the numerator of that share or trust and the Trust Estate, thus likewise reducing the denominator of the fraction. The Trustee may make

such payments directly or may pay over the amounts thereof to the executors or administrators of the Settlor's estate. Written statements by the executors or administrators of such sums due and payable by the estate shall be sufficient evidence of their amount and propriety for the protection of the Trustee and the Trustee shall be under no duty to see to the application of any such payments. If administrative expenses are deducted on the estate's income tax return but paid from principal, then they shall be charged against the Ward Family Trust. The Trustee shall have the power to charge expenses of administration against income or principal, or apportion such expenses; provided, however, this power may not be exercised in a way which would reduce or otherwise adversely affect the marital or charitable deduction otherwise available for federal estate tax purposes. The Trustee shall not exercise this discretion in a manner which is inconsistent with the IRC regulations now in effect or subsequently promulgated.

ARTICLE VII

Specific Distributions. Upon the death of the Settlor, the Trustee shall make the following distributions:

(1) **Specific Distribution.** The Charles Schwab & Co., Inc. Account Number 8041-2928 shall be distributed outright and free of trust to the Settlor's children **STEPHANIE L. WARD, DAVID D. WARD** and **BRIAN C. WARD**, who survive the Settlor, in approximately equal shares; provided, however, the surviving issue of a deceased child shall take per stirpes the share their parent would have taken had he or she survived the Settlor.

(2) **Definition of Trust Estate.** As used in this Trust Agreement, the words "Trust Estate" shall mean the entire Trust Estate minus the specific distributions under this Article.

ARTICLE VIII

Upon the death of the Settlor, the Trustee shall divide the Trust Estate (which shall include any property which may be added from the Settlor's general estate) as follows:

1. **Creation of The Marital Trust and The Ward Family Trust.** If the Settlor is survived by the Settlor's wife, **NANCY L. WARD**, the Trustee shall divide the Trust Estate into Two (2) separate shares, hereinafter designated as "**the Marital Trust**" and "**the Ward Family Trust**." The **Marital Trust** shall be composed of cash, securities or other property of the Trust Estate (undiminished by any estate, inheritance, succession, death or similar taxes) having a value equal to the maximum marital deduction as finally determined in the Settlor's federal estate tax proceedings, less the aggregate amount of marital deductions, if any, allowed for such estate tax purposes by reason of property or interests in property passing or which have passed to the Settlor's wife otherwise than pursuant to the provisions of this Article; provided, however, the amount for the **Marital Trust** hereunder shall be reduced by the amount, if any, needed to increase the Settlor's taxable estate (for federal estate tax purposes) to the largest amount that, after allowing for the unified credit against the federal estate tax, and the state death tax credit against such tax (but only to the extent that the use of such state death tax credit does not increase the death tax payable to any state), will result in the smallest (if any) federal estate tax being imposed on the Settlor's estate. The term "maximum marital deduction" shall not be construed as a direction by the Settlor to exercise any election respecting the deduction of estate

administration expenses, the determination of the estate tax valuation date, or any other tax election which may be available under any tax laws, only in such manner as will result in a larger allowable estate tax marital deduction than if the contrary election had been made. The Trustee shall have the sole discretion to select the assets which shall constitute the Marital Trust. In no event, however, shall there be included in this the Marital Trust any asset or the proceeds of any asset which will not qualify for the federal estate tax marital deduction, and this the Marital Trust shall be reduced to the extent that it cannot be created with such qualifying assets. The Trustee shall value any asset selected by the Trustee for distribution in kind as a part of the Marital Trust hereunder at the value of such asset at the date of distribution of such asset. The Marital Trust shall be administered as hereinafter set forth. The Ward Family Trust shall be the balance of the Trust Estate after the assets have been selected for the Marital Trust.

2. **Creation of The Ward Family Trust.** If the Settlor's wife shall not survive the Settlor, the Ward Family Trust shall be the entire Trust Estate.

The Marital Trust and the Ward Family Trust shall be administered as hereinafter set forth.

ARTICLE IX

The Ward Family Trust Introductory Provision. The Ward Family Trust shall be held, administered and distributed as follows:

1. **Payment to Wife of All Income.** If the Settlor's wife shall survive the Settlor, then commencing with the date of the Settlor's death, the Trustee shall pay to or apply for the benefit of the Settlor's wife during her lifetime all the net income from the Ward Family Trust in convenient installments but no less frequently than quarter-annually.

2. **Discretionary Payments of Principal for Wife.** If the Settlor's wife shall survive the Settlor, and if there is no principal remaining in the Marital Trust, the Trustee may pay to or apply for the benefit of the Settlor's wife during her lifetime, such sums from the principal of the Ward Family Trust as in its sole discretion shall be necessary or advisable from time to time for the medical care, education, support and maintenance in reasonable comfort of the Settlor's wife, taking into consideration to the extent the Trustee deems advisable, any other income or resources of the Settlor's wife known to the Trustee.

3. **Outright Final Distribution if Wife is Deceased.** Upon or after the death of the survivor of the Settlor's wife and the Settlor, the Ward Family Trust shall be distributed outright and free of trust to STEPHANIE L. WARD, DAVID D. WARD, BRIAN C. WARD, ELIZABETH A. DIEMER and GARETT C. DIEMER, in five (5) approximately equal shares; provided, however, if one of these individuals are deceased then the issue of the deceased individual surviving the Settlor and the Settlor's wife shall take per stirpes the share their parent would have taken had he or she survived the Settlor and the Settlor's wife. If any of STEPHANIE L. WARD, DAVID D. WARD or BRIAN C. WARD predecease the survivor of the Settlor and the Settlor's wife and has no issue then living, the share of such predeceased individual shall be distributed per stirpes to the Settlor's issue. If ELIZABETH A. DIEMER predeceases the survivor of the Settlor and the Settlor's wife and has no issue then living, the share of ELIZABETH A. DIEMER shall be distributed per stirpes to the issue of GARETT C.

DIEMER, if any, and in default of issue to GARETT C. DIEMER. If GARETT C. DIEMER predeceases the survivor of the Settlor and the Settlor's wife and has no issue then living, the share of GARETT C. DIEMER shall be distributed per stirpes to the issue of ELIZABETH A. DIEMER, if any, and in default of issue to ELIZABETH A. DIEMER.

ARTICLE X

The Marital Trust Introductory Provision. The Marital Trust shall be held, administered and distributed as follows:

1. **Direction to Pay All Income to Wife.** Commencing with the date of the Settlor's death, the Trustee shall pay to or apply for the benefit of the Settlor's wife during her lifetime all the net income from the Marital Trust in convenient installments but no less frequently than quarter-annually. Any accrued and undistributed income at the death of the Settlor's wife shall be paid with the entire remaining principal as provided in this the Marital Trust.
2. **Discretionary Payments of Principal by Trustee for Benefit of Wife.** In addition, the Trustee may pay to or apply for the benefit of the Settlor's wife such sums from the principal of the Marital Trust as in its sole discretion shall be necessary or advisable from time to time for the medical care, education, support and maintenance in reasonable comfort of the Settlor's wife, taking into consideration to the extent the Trustee deems advisable, any other income or resources of the Settlor's wife known to the Trustee.
3. **Power in Wife to Cause Nonproductive Property to Be Made Productive.** The Settlor's wife may at any time by written notice, require the Trustee either to make any nonproductive property of this trust productive or to convert such nonproductive property to productive property within a reasonable time.
4. **Payment of Death Taxes From The Marital Trust on Death of Wife.** Unless the Settlor's wife's Will specifically provides that the estate, succession, death or similar taxes assessed with respect to the assets of the Marital Trust be paid otherwise, the Trustee shall pay to the executors or administrators of the estate of the wife for the purposes of paying such taxes, the amount by which such taxes assessed by reason of the Settlor's wife's death shall be increased as a result of the inclusion of the assets of the Marital Trust in her estate for such tax purposes.
5. **Trust Property to Be Added to The Ward Family Trust on Wife's Death.** Upon the death of the Settlor's wife, the entire remaining principal of the Marital Trust shall be added to and become a part of the Ward Family Trust and shall be held and administered or distributed in whole or in part, as if it had been an original part of the Ward Family Trust.

ARTICLE XI

Trustee Succession, Trustee's Fees and Other Matters. The provisions for naming the Trustee, Trustee succession, Trustee's fees and other matters are set forth below:

1. **Individual Trustees Succession.** If NANCY L. WARD should fail to qualify as successor Trustee hereunder, or for any reason should cease to act in such capacity, the successor or substitute Trustee who shall also serve without bond shall be the Settlor's brother DUDLEY M. WARD.

2. **Final Succession If Individual Successor Trustee Cannot Act.** If NANCY L. WARD and DUDLEY M. WARD should fail to qualify as individual successor Trustee hereunder, or for any reason should cease to act in such capacity, then the successor or substitute Trustee who shall also serve without bond shall be STEPHANIE L. WARD, DAVID D. WARD and BRIAN C. WARD. If any individual Trustee named herein should fail to qualify as Trustee hereunder, or for any reason should cease to act in such capacity, the remaining Trustees named herein shall continue to serve without a successor or substitute.

3. **Fee Schedule for Individual Trustee.** For its services as Trustee, the individual Trustee shall receive no compensation but shall be entitled to reimbursement for reasonable expenses.

4. **Trustee Voting Rights.** If there is more than one Trustee serving, then the vote of the Trustees for any action hereunder must be by majority action of the Trustees. Provided, however, that if only two Trustees shall be serving as co-Trustees, then the Trustees shall act with unanimity on all actions, unless the co-Trustees shall have otherwise agreed in writing.

5. **Delegation Among Trustees.** When there is more than one individual or entity serving as co-Trustees, then any Trustee may delegate to any other Trustee the power to exercise any or all of the powers granted to the Trustees in this Trust Agreement, including those powers, which are discretionary, to the extent allowed by law. Any delegating Trustee may revoke any such delegation with written notice to the other serving co-Trustees. The delegation of any such power, as well as the revocation of any such delegation, shall be evidenced by an instrument in writing signed by the delegating co-Trustee. As long as any such delegation is in effect, any of the delegated powers may be exercised by the Trustee receiving such delegation with the same force and effect as if the delegating Trustee had personally joined in the exercise of such power. Provided, however, that if such Trustee, or co-Trustee, shall also be a current beneficiary and such delegation shall be deemed to create in that Trustee a right that shall be deemed to be a general power of appointment, then such individual Trustee shall not be vested with such right to delegate such power.

6. **Limitations on Trustees.** No person who at any time is acting as Trustee hereunder shall have any power or obligation to participate in any discretionary authority which the Settlor has given to the Trustee to pay principal or income to such person, or for his or her benefit or in relief of his or her legal obligations.

ARTICLE XII

Definition of Trustee. Whenever the word "Trustee" or any modifying or substituted pronoun therefor is used in this Trust, such words and respective pronouns shall include both the singular and the plural, the masculine, feminine and neuter gender thereof, and shall apply equally to the Trustee named herein and to any successor or substitute Trustee acting hereunder.

and such successor or substitute Trustee shall have all the rights, powers and duties, authority and responsibility conferred upon the Trustee originally named herein.

ARTICLE XIII

Powers for Trustee. The Trustee is authorized in its fiduciary discretion (which shall be subject to the standard of reasonableness and good faith to all beneficiaries) with respect to any property, real or personal, at any time held under any provision of this Trust Agreement and without authorization by any court and in addition to any other rights, powers, authority and privileges granted by any other provision of this Trust Agreement or by statute or general rules of law:

1. To retain in the form received any property or undivided interests in property donated to, or otherwise acquired as a part of the Trust Estate, including residential property and shares of the Trustee's own stock, regardless of any lack of diversification, risk or nonproductivity, as long as it deems advisable, and to exchange any such security or property for other securities or properties and to retain such items received in exchange, although such property represents a large percentage of the total property of the Trust Estate or even the entirety thereof.
2. To invest and reinvest all or any part of the Trust Estate in any property and undivided interests in property, wherever located, including bonds, debentures, notes, secured or unsecured, stocks of corporations regardless of class, interests in limited partnerships, limited liability companies or similar entities, real estate or any interest in real estate whether or not productive at the time of investment, interests in trusts, investment trusts, whether of the open and/or closed fund types, and participation in common, collective or pooled trust funds of the Trustee, insurance contracts on the life of any beneficiary or annuity contracts for any beneficiary, without being limited by any statute or rule of law concerning investments by fiduciaries.
3. To sell or dispose of or grant options to purchase any property, real or personal, constituting a part of the Trust Estate, for cash or upon credit, to exchange any property of the Trust Estate for other property, at such times and upon such terms and conditions as it may deem best, and no person dealing with it shall be bound to see to the application of any monies paid.
4. To hold any securities or other property in its own name as Trustee, in its own name, in the name of a nominee (with or without disclosure of any fiduciary relationship) or in bearer form.
5. To keep, at any time and from time to time, all or any portion of the Trust Estate in cash and uninvested for such period or periods of time as it may deem advisable, without liability for any loss in income by reason thereof.
6. To sell or exercise stock subscription or conversion rights.
7. To refrain from voting or to vote shares of stock which are a part of the Trust Estate at shareholders' meetings in person or by special, limited, or general proxy and in general

to exercise all the rights, powers and privileges of an owner in respect to any securities constituting a part of the Trust Estate.

8. To participate in any plan of reorganization or consolidation or merger involving any company or companies whose stock or other securities shall be part of the Trust Estate, and to deposit such stock or other securities under any plan of reorganization or with any protective committee and to delegate to such committee discretionary power with relation thereto, to pay a proportionate part of the expenses of such committee and any assessments levied under any such plan, to accept and retain new securities received by the Trustee pursuant to any such plan, to exercise all conversion, subscription, voting and other rights, of whatsoever nature pertaining to such property, and to pay any amount or amounts of money as it may deem advisable in connection therewith.

9. To borrow money and to encumber, mortgage or pledge any asset of the Trust Estate for a term within or extending beyond the term of the trust, in connection with the exercise of any power vested in the Trustee.

10. To enter for any purpose into a lease as lessor or lessee with or without option to purchase or renew for a term within or extending beyond the term of the trust.

11. To subdivide, develop, or dedicate real property to public use or to make or obtain the vacation of plats and adjust boundaries, to adjust differences in valuation on exchange or partition by giving or receiving consideration, and to dedicate easements to public use without consideration.

12. To make ordinary or extraordinary repairs or alterations in buildings or other structures, to demolish any improvements, to raze existing or erect new party walls or buildings.

13. To continue and operate any business owned by the Settlor at the Settlor's death and to do any and all things deemed needful or appropriate by the Trustee, including the power to incorporate the business and to put additional capital into the business, for such time as it shall deem advisable, without liability for loss resulting from the continuance or operation of the business except for its own negligence; and to close out, liquidate or sell the business at such time and upon such terms as it shall deem best.

14. To collect, receive, and receipt for rents, issues, profits, and income of the Trust Estate.

15. To insure the assets of the Trust Estate against damage or loss and the Trustee against liability with respect to third persons.

16. In buying and selling assets, in lending and borrowing money, and in all other transactions, irrespective of the occupancy by the same person of dual positions, to deal with itself in its separate, or any fiduciary capacity.

edw
Page 9

17. To compromise, adjust, arbitrate, sue on or defend, abandon, or otherwise deal with and settle claims in favor of or against the Trust Estate as the Trustee shall deem best.

18. To employ and compensate agents, accountants, investment advisers, brokers, attorneys-in-fact, attorneys-at-law, tax specialists, realtors, and other assistants and advisors deemed by the Trustee needful for the proper administration of the Trust Estate, and to do so without liability for any neglect, omission, misconduct, or default of any such agent or professional representative provided such person was selected and retained with reasonable care.

19. To determine what shall be fairly and equitably charged or credited to income and what to principal.

20. To hold and retain the principal of the Trust Estate undivided until actual division shall become necessary in order to make distributions; to hold, manage, invest, and account for the several shares or parts thereof by appropriate entries on the Trustee's books of account; and to allocate to each share or part of share its proportionate part of all receipts and expenses; provided, however, the carrying of several trusts as one shall not defer the vesting in title or in possession of any share or part of share thereof.

21. To make payment in cash or in kind, or partly in cash and partly in kind upon any division or distribution of the Trust Estate (including the satisfaction of any pecuniary distribution) without regard to the income tax basis of any specific property allocated to any beneficiary and to value and appraise any asset and to distribute such asset in kind at its appraised value; and when dividing fractional interests in property among several beneficiaries to allocate entire interests in some property to one beneficiary and entire interests in other property to another beneficiary or beneficiaries.

22. In general, to exercise all powers in the management of the Trust Estate which any individual could exercise in his or her own right, upon such terms and conditions as it may reasonably deem best, and to do all acts which it may deem reasonably necessary or proper to carry out the purposes of this Trust Agreement.

23. To purchase property, real or personal, from the Settlor's general estate upon such terms and conditions as to price and terms of payment as the Settlor's executors or administrators and the Trustee shall agree, to hold the property so purchased as a part of the Trust Estate although it may not qualify as an authorized trust investment except for this provision, and to dispose of such property as and when the Trustee shall deem advisable. The fact that the Settlor's executors or administrators and the Trustee are the same shall in no way affect the validity of this provision.

24. To lend funds to the Settlor's general estate upon such terms and conditions as to interest rates, maturities, and security as the Settlor's executors or administrators and the Trustee shall agree, the fact that they may be the same in no way affecting the validity of this provision.

25. To receive property bequeathed, devised or donated to the Trustee by the Settlor or any other person; to receive the proceeds of any insurance policy which names the Trustee as

beneficiary; to execute all necessary receipts and releases to Executors, donors, insurance companies and other parties adding property to the Trust Estate.

26. To combine assets of two or more trusts if the provisions and terms of each trust are substantially identical, and to administer them as a single trust, if the Trustee reasonably determines that the administration as a single trust is consistent with the Settlor's intent, and facilitates the trust's administration without defeating or impairing the interests of the beneficiaries.

27. To divide any trust into separate shares or separate trusts or to create separate trusts if the Trustee reasonably deems it appropriate and the division or creation is consistent with the Settlor's intent, and facilitates the trust's administration without defeating or impairing the interests of the beneficiaries.

28. To divide property in any trust being held hereunder with an inclusion ratio, as defined in section 2642(a)(1) of the Internal Revenue Code of 1986, as from time to time amended or under similar future legislation, of neither one nor zero into two separate trusts representing two fractional shares of the property being divided, one to have an inclusion ratio of one and the other to have an inclusion ratio of zero, to create trusts to receive property with an inclusion ratio of either one or zero and if this cannot be done to refuse to accept property which does not have a matching inclusion ratio to the receiving trust's ratio, all as the Trustee in its sole discretion deems best.

29. If the Trustee shall act as the Executor of the Settlor's estate, to elect to allocate any portion or all the Settlor's generation-skipping transfer exemption provided for in Code section 2631 or under similar future legislation, in effect at the time of the Settlor's death, to any portion or all of any other trusts or bequests in the Settlor's Will or any other transfer which the Settlor is the transferor for purposes of the generation-skipping tax. Generally, the Settlor anticipates that the Settlor's Executor will elect to allocate this exemption first to direct skips as defined in Code section 2612, then to the Ward Family Trust, unless it would be inadvisable based on all the circumstances at the time of making the allocation; and to make the special election under section 2652(a)(3) of the Code to the extent the Settlor's Executor deems in the best interest of the Settlor's estate.

ARTICLE XIV

Trustee's Discretion to Allow Beneficiary or Beneficiaries to Occupy Residential Real Estate. The Trustee may in its discretion permit any beneficiary or beneficiaries to occupy rent free any residence constituting a part of the trust assets for such beneficiary or beneficiaries and to pay the real estate taxes thereon, expenses of maintaining the residence in suitable repair and condition and hazard insurance premiums on the residence. Provided, however, the Trustee shall not exercise this power in any way which would deprive the wife under the Marital Trust of the beneficial enjoyment of the Marital Trust and the wife shall have the right to limit, restrict or terminate the Trustee's exercises of this power if they interfere with such beneficial enjoyment.

ARTICLE XV

Marital Deduction Savings Clause for the Marital Trust. It is expressly provided that the grant of rights, powers, privileges and authority to the Trustee in connection with the imposition of duties upon the Trustee by any provision of this Trust Agreement or by any statute relating thereto shall not be effective if and to the extent that the same, if effective, would disqualify the marital deduction as established in the Marital Trust hereof. It is the Settlor's intention that the Settlor's wife under the provisions of the Marital Trust have substantially that degree of beneficial enjoyment of the Trust Estate during her lifetime which the principles of the law of trusts accord to a person who is unqualifiedly designated as the life beneficiary of a trust and the Trustee shall not exercise its discretion in a manner which is not in accord with this expressed intention. The Trustee shall invest the Trust Estate so it will produce for the Settlor's wife during her lifetime an income or use which is consistent with the value of the Trust Estate and with its preservation. It is expressly provided that the Trustee shall not in the exercise of its discretion make any determination inconsistent with the foregoing.

ARTICLE XVI

Provision for Trustee to Act as Trustee for Beneficiary Under Age Twenty-One. If any share hereunder becomes distributable to a beneficiary who has not attained the age of Twenty-one (21), such share shall immediately vest in the beneficiary, but notwithstanding the provisions herein, the Trustee shall retain possession of the share in trust for the beneficiary until the beneficiary attains the age of Twenty-one (21), using so much of the net income and principal of the share as the Trustee deems necessary to provide for the medical care, education, support and maintenance in reasonable comfort of the beneficiary, taking into consideration to the extent the Trustee deems advisable any other income or resources of the beneficiary or his or her parents known to the Trustee. Any income not so paid or applied shall be accumulated and added to principal. The beneficiary's share shall be paid over and distributed to the beneficiary upon attaining age Twenty-one (21), or if he or she shall sooner die, to his or her executors or administrators. The Trustee shall have with respect to each share so retained all the powers and discretions it had with respect to the trusts created herein generally.

ARTICLE XVII

Trustee's Discretion in Making Payments to a Person Under Age Twenty-One, Incompetent, or Incapacitated Person. In case the income or principal payment under any trust created hereunder or any share thereof shall become payable to a person under the age of Twenty-one (21), or to a person under legal disability, or to a person not adjudicated incompetent, but who, by reason of illness or mental or physical disability, is, in the opinion of the Trustee unable properly to administer such amounts, then such amounts shall be paid out by the Trustee in such of the following ways as the Trustee deems best: (1) directly to the beneficiary; (2) to the legally appointed guardian of the beneficiary; (3) to some relative or friend for the medical care, education, support and maintenance in reasonable comfort of the beneficiary; (4) by the Trustee using such amounts directly for the beneficiary's care, support and education; (5) to a custodian for the beneficiary under the Uniform Gifts or Transfers to Minors Act. Provided, however, that the Trustee shall not make any payment from the Marital Trust under (3) above.

ARTICLE XVIII

Power of Trustee to Resign During Settlor's Lifetime. Any Trustee may resign this trusteeship during the Settlor's lifetime by giving the Settlor Thirty (30) days notice in writing delivered to the Settlor in person or mailed to the Settlor's last known address, the resignation to become effective as hereinafter provided. Upon receipt of such notice, the Settlor shall appoint a successor Trustee. Upon the failure of the Settlor to appoint a successor Trustee who accepts the trust within Thirty (30) days from the time notice was delivered in person or mailed to the Settlor, the Trustee may resign to the court having jurisdiction over this trust, which court may, if it deems advisable, accept the resignation and appoint a successor Trustee which shall be an individual as successor to an individual trustee or a bank or trust company qualified to do business in the state of the Settlor's domicile as successor to a corporate trustee. Upon the appointment of and acceptance by the successor Trustee, the original Trustee shall pay over, deliver, assign, transfer or convey to such successor Trustee the Trust Estate and make a full and proper accounting to the Settlor, whereupon its resignation shall become effective. The substitute or successor Trustee upon acceptance of this trust and the Trust Estate shall succeed to and have all the rights, powers and duties, authority and responsibility conferred upon the Trustee originally named herein.

ARTICLE XIX

Settlor During Lifetime to Designate Substitute or Successor Trustee. The Settlor during the Settlor's lifetime may name a substitute or successor Trustee by delivery to any Trustee herein a notice naming the successor or substitute Trustee and indicating an intent to replace the Trustee named. Upon receipt of such notice the Trustee named shall pay over, deliver, assign, transfer or convey to such substitute or successor Trustee (which accepts the appointment as trustee), the Trust Estate and make a full and proper accounting to the Settlor, whereupon the Trustee named shall be discharged and have no further responsibility under this Trust Agreement. Upon the failure of the Trustee to make such conveyance the Settlor may apply to the court having jurisdiction of this trust and such court may compel the conveyance by the Trustee. The substitute or successor Trustee upon acceptance of this trust and the Trust Estate shall succeed to and possess all the rights, powers and duties, authority and responsibility conferred upon the Trustee originally named herein.

ARTICLE XX

Definitions of Family. The following definitions shall be used to define the family:

1. **Definition of Children.** For purposes of this Trust, "children" of the Settlor means STEPHANIE L. WARD, DAVID D. WARD and BRIAN C. WARD, but "children" does not mean STEPHEN A. WARD and JEREMY W. WARD. For purposes of this Trust, "children" of the Settlor's wife means ELIZABETH A. DIEMER and GARETT C. DIEMER. "Issue" and "descendants" mean the lawful blood descendants in any degree of the ancestor designated; however, it does not include STEPHEN A. WARD and JEREMY W. WARD or their respective issue.

2. Definition of Per Stirpes. The term "per stirpes" as used herein has the identical meaning as the term "taking by representation" as defined in the South Carolina Probate Code.

ARTICLE XXI

Definition of Words Relating to the Internal Revenue Code. As used herein, the words "gross estate," "adjusted gross estate," "taxable estate," "unified credit" ("unified credit" shall also mean "applicable credit amount"), "applicable exclusion amount," "state death tax credit," "maximum marital deduction," "marital deduction," "pass," "qualified terminable interest," "qualified terminable interest property," and any other word or words which from the context in which it or they are used refer to the Internal Revenue Code shall have the same meaning as such words have for the purposes of applying the Internal Revenue Code to the Settlor's estate. For purposes of this Trust Agreement, the Settlor's "available generation-skipping transfer exemption" means the generation-skipping transfer tax exemption provided in section 2631 of the Internal Revenue Code of 1986, as amended, in effect at the time of the Settlor's death reduced by the aggregate of (1) the amount, if any, of the Settlor's exemption allocated to lifetime transfers of the Settlor by the Settlor or by operation of law, and (2) the amount, if any, the Settlor has specifically allocated to other property of the Settlor's gross estate for federal estate tax purposes. For purposes of this Trust Agreement if at the time of the Settlor's death the Settlor has made gifts with an inclusion ratio of greater than zero for which the gift tax return due date has not expired (including extensions) and the Settlor has not yet filed a return, it shall be deemed that the Settlor's generation-skipping transfer exemption has been allocated to these transfers to the extent necessary (and possible) to exempt the transfer(s) from generation-skipping transfer tax. Reference to sections of the Internal Revenue Code and to the Internal Revenue Code shall refer to the Internal Revenue Code amended to the date of the Settlor's death.

ARTICLE XXII

Simultaneous Death Provision Presuming Beneficiary Predeceases Settlor. If any beneficiary and the Settlor should die under such circumstances as would make it doubtful whether the beneficiary or the Settlor died first, then it shall be conclusively presumed for the purposes of this Trust that the beneficiary predeceased the Settlor.

ARTICLE XXIII

Payment of Funeral Expenses and Expenses of Last Illness of Income Beneficiary. On the death of any person entitled to income or support from any Trust hereunder, the Trustee is authorized to pay the funeral expenses and the expenses of the last illness of such person from the principal of the Trust from which such person was entitled to income or support.

ARTICLE XXIV

State Law to Govern. This Trust Agreement and the trusts created hereby shall be construed, regulated and governed by and in accordance with the laws of the State of South Carolina.

ARTICLE XXV

Agreement for Mutual Wills and Trusts. The Agreement for Mutual Wills and Trusts dated as of even date herewith between STEPHEN D. WARD and NANCY L. WARD is incorporated by reference into this Trust Agreement of Stephen D. Ward.

Trust Agreement of Stephen D. Ward

CHARLETON 257447v2


Page 15

Testimonium Clause. IN WITNESS WHEREOF, the Settlor and the Trustee have executed this Trust Agreement.

WITNESSES:

Jeanne A. Pusey
Magdalena Cruz

Jeanne A. Pusey
Magdalena Cruz

S. D. Ward
STEPHEN D. WARD, SETTLOR

S. D. Ward
STEPHEN D. WARD, TRUSTEE

STATE OF SOUTH CAROLINA)
) PROBATE
COUNTY OF CHARLESTON)

Personally appeared the undersigned witness and made oath that he saw the within named Settlor and Trustee sign, seal and as their act and deed deliver the within Trust Agreement and that deponent with the other witness whose name is subscribed above witnessed the execution thereof.

Masdales-Put

Sworn to before me this

21st day of April, 2005

Brian L. Rhoads

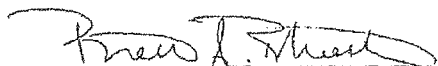
Notary Public for South Carolina

My Commission expires: July 24, 2012

STATE OF SOUTH CAROLINA)
) ACKNOWLEDGMENT
COUNTY OF CHARLESTON)

I, a Notary Public, within and for the State and County aforesaid do hereby certify that the foregoing instrument of writing was this day produced to me in the above State and County and was executed and acknowledged by STEPHEN D. WARD, as Settlor and Trustee, to be the free and voluntary act and deed of the Settlor and Trustee.

WITNESS my signature this 21st day of April, 2005.



Signature of Notary Public

Brett A. Bluestein

Typed Name of Notary Public

Notary Public for: South Carolina

My commission expires: July 24, 2012

EXHIBIT 5

FIRST AMENDMENT AND RESTATEMENT OF TRUST AGREEMENT OF NANCY L. WARD

Introductory Clause. This First Amendment and Restatement of Trust Agreement of NANCY L. WARD made this 21st day of April, 2005, between NANCY L. WARD, hereinafter referred to as the Settlor and NANCY L. WARD, hereinafter referred to as the Trustee.

The Settlor is married to STEPHEN D. WARD and has two living children: ELIZABETH A. DIEMER and GARETT C. DIEMER.

The Settlor has five living step-children: STEPHANIE L. WARD, DAVID D. WARD, BRIAN C. WARD, STEPHEN A. WARD and JEREMY W. WARD. The Settlor's husband's children STEPHEN A. WARD and JEREMY W. WARD and their respective issue shall not receive any benefits under this Trust Agreement as they will be provided for by their mother with assets she received from the Settlor's husband pursuant to their divorce. Their omission is intentional.

WHEREAS, the Settlor and the Trustee entered into the NANCY DIEMER TRUST dated April 28, 1998, hereinafter called the Trust Agreement; and

WHEREAS, ARTICLE SEVENTH of the Trust Agreement provided that the Settlor reserved the right to amend in any manner or revoke in whole or in part the Trust Agreement; and

WHEREAS, the Settlor is desirous of modifying and amending the Trust Agreement and the Trustee is agreeable to the modifications and amendments contained herein;

NOW, THEREFORE, IT IS AGREED that the entire Trust Agreement as modified and amended will read as follows:

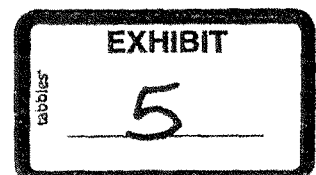
ARTICLE I

Trustee Succession if Settlor Dies or Becomes Incapacitated. If the Settlor dies or is adjudicated to be incompetent or in the event that the Settlor is not adjudicated incompetent, but by reason of illness or mental or physical disability is, in the opinion of two licensed physicians, unable to properly handle the Settlor's own affairs, then and in that event the Trustee named below shall immediately become the Trustee under this Trust Agreement. The Settlor names the following as successor Trustee:

STEPHEN D. WARD

Trust Agreement of Nancy L. Ward
CHARLESTON 257493v2

Page 6



Third parties may rely on an affidavit by the Trustee named above stating that the successor Trustee is now acting as Trustee hereunder.

ARTICLE II

Description of Property Transferred. The Settlor has paid over, assigned, granted, conveyed, transferred and delivered, and by this Agreement does hereby pay over, assign, grant, convey, transfer and deliver unto the Trustee certain property, and has caused or will cause the Trustee to be designated as beneficiary of certain life insurance policies. These insurance policies, and any other insurance policies that may be delivered to the Trustee hereunder or under which the Trustee may be designated as beneficiary, the proceeds of all such policies being payable to the Trustee, and any other property that may be received or which has been received by the Trustee hereunder, as invested and reinvested (hereinafter referred to as the "Trust Estate"), shall be held, administered and distributed by the Trustee as hereinafter set forth.

ARTICLE III

Rights of Settlor and Trustee in Insurance Policies. During the Settlor's lifetime, the Settlor shall have all rights under any life insurance policies payable to the Trustee, including the right to change the beneficiary, to receive any dividends or other earnings of such policies without accountability therefor to the Trustee or any beneficiary hereunder, and may assign any policies to any lender, including the Trustee, as security for any loan to the Settlor or any other person; and the Trustee shall have no responsibility with respect to any policies, for the payment of premiums or otherwise, except to hold any policies received by the Trustee in safekeeping and to deliver them upon the Settlor's written request and upon the payment to the Trustee of reasonable compensation for services. The rights of any assignee of any policy shall be superior to the rights of the Trustee. If any policy is surrendered or if the beneficiary of any policy is changed, this trust shall be revoked with respect to such policy. However, no revocation of the trust with respect to any policy, whether pursuant to the provisions of the preceding sentence or otherwise, shall be effective unless the surrender or change in beneficiary of the policy is accepted by the insurance company. Upon the death of the insured under any policy held by or known to, and payable to, the Trustee, or upon the occurrence of some event prior to the death of the Settlor that matures any such policy, the Trustee, in its discretion, either may collect the net proceeds and hold them as part of the principal of the Trust Estate, or may exercise any optional method of settlement available to it, and the Trustee shall deliver any policies on the Settlor's life held by it and payable to any other beneficiaries as those beneficiaries may direct. Payment to, and the receipt of, the Trustee shall be a full discharge of the liability of any insurance company, which need not take notice of this agreement or see to the application of any payment. The Trustee need not engage in litigation to enforce payment of any policy without indemnification satisfactory to it for any resulting expenses.

ARTICLE IV

Provisions for Settlor During Lifetime. The Trustee shall hold, manage, invest and reinvest the Trust Estate (if any requires such management and investment) and shall collect the income, if any, therefrom and shall dispose of the net income and principal as follows:

1. During the lifetime of the Settlor, the Trustee shall pay to or apply for the benefit of the Settlor all the net income from this Trust.

2. During the lifetime of the Settlor, the Trustee may pay to or apply for the benefit of the Settlor such sums from the principal of this Trust as in its sole discretion shall be necessary or advisable from time to time for the medical care, education, support and maintenance in reasonable comfort of the Settlor, taking into consideration to the extent the Trustee deems advisable, any other income or resources of the Settlor known to the Trustee.

3. During the Settlor's lifetime and in the event that the Settlor is adjudicated to be incompetent or in the event that the Settlor is not adjudicated incompetent, but by reason of illness or mental or physical disability is, in the opinion of the Trustee, unable to properly handle the Settlor's own affairs, then and in that event the Trustee shall have the authorization to engage in additional estate planning to reduce the expected gift and estate tax liability as well as provide for additional resources for family transfers and, if consistent with the Settlor's desires, charitable purposes. The estate planning, which is specifically authorized, may include the design, implementation, and funding of techniques such as limited partnerships, limited liability companies, lifetime gifts and transfers, qualified personal residence trusts, charitable trusts, family foundations, and other trusts and techniques designed to reduce the total estate and gift taxes anticipated to be paid by the Settlor and the Settlor's estate to increase the expected benefit to the Settlor's family, beneficiaries, and charities, if any.

4. During the Settlor's lifetime and in the event that the Settlor is adjudicated to be incompetent or in the event that the Settlor is not adjudicated incompetent, but by reason of illness or mental or physical disability is, in the opinion of the Trustee, unable to properly handle the Settlor's own affairs, then and in that event the Trustee shall have the authorization to (but shall not be required to) make gifts equal to or in excess of the annual gift tax exclusion to the Settlor's children and their issue, and their respective spouses, if appropriate, and in such amounts and upon such terms and conditions as the Trustee, in the Trustee's discretion, shall determine.

ARTICLE V

Settlor's Rights to Amend, Change or Revoke the Trust Agreement. Except as provided for in the AGREEMENT FOR MUTUAL WILLS AND TRUSTS, dated as of even date herewith and entered into between the Settlor and the Settlor's husband, STEPHEN D. WARD, the Settlor may, by signed instruments delivered to the Trustee during the Settlor's life: (1) withdraw property from this Trust in any amount and at any time upon giving reasonable notice in writing to the Trustee; (2) add other property to the Trust; (3) change the beneficiaries, their respective shares and the plan of distribution; (4) amend this Trust Agreement in any other respect; (5) revoke this Trust in its entirety or any provision therein; provided, however, the duties or responsibilities of the Trustee shall not be enlarged without the Trustee's consent nor without satisfactory adjustment of the Trustee's compensation.

ARTICLE VI

Discretionary Provisions for Trustee to Deal with Settlor's Estate and Make Payment of Debts and Taxes. After the Settlor's death, the Trustee, if in its discretion it deems it advisable, may pay all or any part of the Settlor's funeral expenses, legally enforceable claims against the Settlor or the Settlor's estate, reasonable expenses of administration of the Settlor's estate, any allowances by court order to those dependent upon the Settlor, any estate, inheritance, succession, death or similar taxes payable by reason of the Settlor's death, together with any interest thereon or other additions thereto, without reimbursement from the Settlor's executors or administrators, from any beneficiary of insurance upon the Settlor's life, or from any other person. All such payments, except of interest, shall be charged generally against the principal of the Trust Estate includable in the Settlor's estate for Federal estate tax purposes and any interest so paid shall be charged generally against the income thereof; provided, however, any such payments of estate, inheritance, succession, death or similar taxes (except generation-skipping transfer taxes) shall be charged against the principal constituting the Family Trust and any interest so paid shall be charged against the income thereof. If such share or trust was created as a fraction, then such taxes thus paid shall reduce the numerator of that share or trust and the Trust Estate, thus likewise reducing the denominator of the fraction. The Trustee may make such payments directly or may pay over the amounts thereof to the executors or administrators of the Settlor's estate. Written statements by the executors or administrators of such sums due and payable by the estate shall be sufficient evidence of their amount and propriety for the protection of the Trustee and the Trustee shall be under no duty to see to the application of any such payments. If administrative expenses are deducted on the estate's income tax return but paid from principal, then they shall be charged against the Family Trust. The Trustee shall have the power to charge expenses of administration against income or principal, or apportion such expenses; provided, however, this power may not be exercised in a way which would reduce or otherwise adversely affect the marital or charitable deduction otherwise available for federal estate tax purposes. The Trustee shall not exercise this discretion in a manner which is inconsistent with the IRC regulations now in effect or subsequently promulgated.

ARTICLE VII

Specific Distributions. Upon the death of the Settlor, the Trustee shall make the following distributions:

(1) **Specific Distribution.** The Charles Schwab & Co., Inc. Account Number 9091-9831 shall be distributed outright and free of trust to the Settlor's surviving children in approximately equal shares; provided, however, the surviving issue of a deceased child shall take per stirpes the share their parent would have taken had he or she survived the Settlor. If ELIZABETH A. DIEMER predeceases the Settlor and has no issue then living, the share of ELIZABETH A. DIEMER shall be distributed per stirpes to the issue of GARETT C. DIEMER, if any, and in default of issue to GARETT C. DIEMER. If GARETT C. DIEMER predeceases the Settlor and has no issue then living, the share of GARETT C. DIEMER shall be distributed per stirpes to the issue of ELIZABETH A. DIEMER, if any, and in default of issue to ELIZABETH A. DIEMER.

(2) **Definition of Trust Estate.** As used in this Trust Agreement, the words "Trust Estate" shall mean the entire Trust Estate minus the specific distributions under this Article.

ARTICLE VIII

Upon the death of the Settlor, the Trustee shall divide the Trust Estate (which shall include any property which may be added from the Settlor's general estate) as follows:

1. **Creation of The Marital Trust and The Family Trust.** If the Settlor is survived by the Settlor's husband, **STEPHEN D. WARD**, the Trustee shall divide the Trust Estate into Two (2) separate shares, hereinafter designated as "the Marital Trust" and "the Family Trust." The Marital Trust shall be composed of cash, securities or other property of the Trust Estate (undiminished by any estate, inheritance, succession, death or similar taxes) having a value equal to the maximum marital deduction as finally determined in the Settlor's federal estate tax proceedings, less the aggregate amount of marital deductions, if any, allowed for such estate tax purposes by reason of property or interests in property passing or which have passed to the Settlor's husband otherwise than pursuant to the provisions of this Article; provided, however, the amount for the Marital Trust hereunder shall be reduced by the amount, if any, needed to increase the Settlor's taxable estate (for federal estate tax purposes) to the largest amount that, after allowing for the unified credit against the federal estate tax, and the state death tax credit against such tax (but only to the extent that the use of such state death tax credit does not increase the death tax payable to any state), will result in the smallest (if any) federal estate tax being imposed on the Settlor's estate. The term "maximum marital deduction" shall not be construed as a direction by the Settlor to exercise any election respecting the deduction of estate administration expenses, the determination of the estate tax valuation date, or any other tax election which may be available under any tax laws, only in such manner as will result in a larger allowable estate tax marital deduction than if the contrary election had been made. The Trustee shall have the sole discretion to select the assets which shall constitute the Marital Trust. In no event, however, shall there be included in this the Marital Trust any asset or the proceeds of any asset which will not qualify for the federal estate tax marital deduction, and this the Marital Trust shall be reduced to the extent that it cannot be created with such qualifying assets. The Trustee shall value any asset selected by the Trustee for distribution in kind as a part of the Marital Trust hereunder at the value of such asset at the date of distribution of such asset. The Marital Trust shall be administered as hereinafter set forth. The Family Trust shall be the balance of the Trust Estate after the assets have been selected for the Marital Trust.

2. **Creation of the Family Trust.** If the Settlor's husband shall not survive the Settlor, the Family Trust shall be the entire Trust Estate.

The Marital Trust and the Family Trust shall be administered as hereinafter set forth.

ARTICLE IX

The Family Trust Introductory Provision. The Family Trust shall be held, administered and distributed as follows:

NW

1. **Payment to Husband of All Income.** If the Settlor's husband shall survive the Settlor, then commencing with the date of the Settlor's death, the Trustee shall pay to or apply for the benefit of the Settlor's husband during his lifetime all the net income from the Family Trust in convenient installments but no less frequently than quarter-annually.

2. **Discretionary Payments of Principal for Husband.** If the Settlor's husband shall survive the Settlor, and if there is no principal remaining in the Marital Trust, the Trustee may pay to or apply for the benefit of the Settlor's husband during his lifetime, such sums from the principal of the Family Trust as in its sole discretion shall be necessary or advisable from time to time for the medical care, education, support and maintenance in reasonable comfort of the Settlor's husband, taking into consideration to the extent the Trustee deems advisable, any other income or resources of the Settlor's husband known to the Trustee.

3. **Outright Final Distribution if Husband is Deceased.** Upon or after the death of the survivor of the Settlor's husband and the Settlor, the Family Trust shall be distributed outright and free of trust to STEPHANIE L. WARD, DAVID D. WARD, BRIAN C. WARD, ELIZABETH A. DIEMER and GARETT C. DIEMER, in five (5) approximately equal shares; provided, however, if one of these individuals are deceased then the issue of the deceased individual surviving the Settlor and the Settlor's husband shall take per stirpes the share their parent would have taken had he or she survived the Settlor and the Settlor's husband. If any of STEPHANIE L. WARD, DAVID D. WARD or BRIAN C. WARD predecease the survivor of the Settlor and the Settlor's husband and has no issue then living, the share of such predeceased individual shall be distributed per stirpes to the Settlor's husband's issue. If ELIZABETH A. DIEMER predeceases the survivor of the Settlor and the Settlor's husband and has no issue then living, the share of ELIZABETH A. DIEMER shall be distributed per stirpes to the issue of GARETT C. DIEMER, if any, and in default of issue to GARETT C. DIEMER. If GARETT C. DIEMER predeceases the survivor of the Settlor and the Settlor's husband and has no issue then living, the share of GARETT C. DIEMER shall be distributed per stirpes to the issue of ELIZABETH A. DIEMER, if any, and in default of issue to ELIZABETH A. DIEMER.

ARTICLE X

The Marital Trust Introductory Provision. The Marital Trust shall be held, administered and distributed as follows:

1. **Direction to Pay All Income to Husband.** Commencing with the date of the Settlor's death, the Trustee shall pay to or apply for the benefit of the Settlor's husband during his lifetime all the net income from the Marital Trust in convenient installments but no less frequently than quarter-annually. Any accrued and undistributed income at the death of the Settlor's husband shall be paid with the entire remaining principal as provided in this the Marital Trust.

2. **Discretionary Payments of Principal by Trustee for Benefit of Husband.** In addition, the Trustee may pay to or apply for the benefit of the Settlor's husband such sums from the principal of the Marital Trust as in its sole discretion shall be necessary or advisable from time to time for the medical care, education, support and maintenance in reasonable comfort of

rw

the Settlor's husband, taking into consideration to the extent the Trustee deems advisable, any other income or resources of the Settlor's husband known to the Trustee.

3. **Power in Husband to Cause Nonproductive Property to Be Made Productive.** The Settlor's husband may at any time by written notice, require the Trustee either to make any nonproductive property of this trust productive or to convert such nonproductive property to productive property within a reasonable time.

4. **Payment of Death Taxes From the Marital Trust on Death of Husband.** Unless the Settlor's husband's Will specifically provides that the estate, succession, death or similar taxes assessed with respect to the assets of the Marital Trust be paid otherwise, the Trustee shall pay to the executors or administrators of the estate of the husband for the purposes of paying such taxes, the amount by which such taxes assessed by reason of the Settlor's husband's death shall be increased as a result of the inclusion of the assets of the Marital Trust in his estate for such tax purposes.

5. **Trust Property to Be Added to the Family Trust on Husband's Death.** Upon the death of the Settlor's husband, the entire remaining principal of the Marital Trust shall be added to and become a part of the Family Trust and shall be held and administered or distributed in whole or in part, as if it had been an original part of the Family Trust.

ARTICLE XI

Trustee Succession, Trustee's Fees and Other Matters. The provisions for naming the Trustee, Trustee succession, Trustee's fees and other matters are set forth below:

1. **Individual Trustees Succession.** If STEPHEN D. WARD should fail to qualify as successor Trustee hereunder, or for any reason should cease to act in such capacity, the successor or substitute Trustee who shall also serve without bond shall be the Settlor's brother ROBERT A. GOEKEL.

2. **Final Succession If Individual Successor Trustee Cannot Act.** If STEPHEN D. WARD and ROBERT A. GOEKEL should fail to qualify as individual successor Trustee hereunder, or for any reason should cease to act in such capacity, then the successor or substitute Trustee who shall also serve without bond shall be ELIZABETH A. DIEMER and GARETT C. DIEMER. If any individual Trustee named herein should fail to qualify as Trustee hereunder, or for any reason should cease to act in such capacity, the remaining Trustees named herein shall continue to serve without a successor or substitute.

3. **Fee Schedule for Individual Trustee.** For its services as Trustee, the individual Trustee shall receive no compensation but shall be entitled to reimbursement for reasonable expenses.

4. **Trustee Voting Rights.** If there is more than one Trustee serving, then the vote of the Trustees for any action hereunder must be by majority action of the Trustees. Provided, however, that if only two Trustees shall be serving as co-Trustees, then the Trustees shall act with unanimity on all actions, unless the co-Trustees shall have otherwise agreed in writing.

Trust Agreement of Nancy L. Ward

CHARLESTON 257493v2

Page 7

NW

5. **Delegation Among Trustees.** When there is more than one individual or entity serving as co-Trustees, then any Trustee may delegate to any other Trustee the power to exercise any or all of the powers granted to the Trustees in this Trust Agreement, including those powers, which are discretionary, to the extent allowed by law. Any delegating Trustee may revoke any such delegation with written notice to the other serving co-Trustees. The delegation of any such power, as well as the revocation of any such delegation, shall be evidenced by an instrument in writing signed by the delegating co-Trustee. As long as any such delegation is in effect, any of the delegated powers may be exercised by the Trustee receiving such delegation with the same force and effect as if the delegating Trustee had personally joined in the exercise of such power. Provided, however, that if such Trustee, or co-Trustee, shall also be a current beneficiary and such delegation shall be deemed to create in that Trustee a right that shall be deemed to be a general power of appointment, then such individual Trustee shall not be vested with such right to delegate such power.

6. **Limitations on Trustees.** No person who at any time is acting as Trustee hereunder shall have any power or obligation to participate in any discretionary authority which the Settlor has given to the Trustee to pay principal or income to such person, or for his or her benefit or in relief of his or her legal obligations.

ARTICLE XII

Definition of Trustee. Whenever the word "Trustee" or any modifying or substituted pronoun therefor is used in this Trust, such words and respective pronouns shall include both the singular and the plural, the masculine, feminine and neuter gender thereof, and shall apply equally to the Trustee named herein and to any successor or substitute Trustee acting hereunder, and such successor or substitute Trustee shall have all the rights, powers and duties, authority and responsibility conferred upon the Trustee originally named herein.

ARTICLE XIII

Powers for Trustee. The Trustee is authorized in its fiduciary discretion (which shall be subject to the standard of reasonableness and good faith to all beneficiaries) with respect to any property, real or personal, at any time held under any provision of this Trust Agreement and without authorization by any court and in addition to any other rights, powers, authority and privileges granted by any other provision of this Trust Agreement or by statute or general rules of law:

1. To retain in the form received any property or undivided interests in property donated to, or otherwise acquired as a part of the Trust Estate, including residential property and shares of the Trustee's own stock, regardless of any lack of diversification, risk or nonproductivity, as long as it deems advisable, and to exchange any such security or property for other securities or properties and to retain such items received in exchange, although such property represents a large percentage of the total property of the Trust Estate or even the entirety thereof.

2. To invest and reinvest all or any part of the Trust Estate in any property and undivided interests in property, wherever located, including bonds, debentures, notes, secured or unsecured, stocks of corporations regardless of class, interests in limited partnerships, limited liability companies or similar entities, real estate or any interest in real estate whether or not productive at the time of investment, interests in trusts, investment trusts, whether of the open and/or closed fund types, and participation in common, collective or pooled trust funds of the Trustee, insurance contracts on the life of any beneficiary or annuity contracts for any beneficiary, without being limited by any statute or rule of law concerning investments by fiduciaries.
3. To sell or dispose of or grant options to purchase any property, real or personal, constituting a part of the Trust Estate, for cash or upon credit, to exchange any property of the Trust Estate for other property, at such times and upon such terms and conditions as it may deem best, and no person dealing with it shall be bound to see to the application of any monies paid.
4. To hold any securities or other property in its own name as Trustee, in its own name, in the name of a nominee (with or without disclosure of any fiduciary relationship) or in bearer form.
5. To keep, at any time and from time to time, all or any portion of the Trust Estate in cash and uninvested for such period or periods of time as it may deem advisable, without liability for any loss in income by reason thereof.
6. To sell or exercise stock subscription or conversion rights.
7. To refrain from voting or to vote shares of stock which are a part of the Trust Estate at shareholders' meetings in person or by special, limited, or general proxy and in general to exercise all the rights, powers and privileges of an owner in respect to any securities constituting a part of the Trust Estate.
8. To participate in any plan of reorganization or consolidation or merger involving any company or companies whose stock or other securities shall be part of the Trust Estate, and to deposit such stock or other securities under any plan of reorganization or with any protective committee and to delegate to such committee discretionary power with relation thereto, to pay a proportionate part of the expenses of such committee and any assessments levied under any such plan, to accept and retain new securities received by the Trustee pursuant to any such plan, to exercise all conversion, subscription, voting and other rights, of whatsoever nature pertaining to such property, and to pay any amount or amounts of money as it may deem advisable in connection therewith.
9. To borrow money and to encumber, mortgage or pledge any asset of the Trust Estate for a term within or extending beyond the term of the trust, in connection with the exercise of any power vested in the Trustee.
10. To enter for any purpose into a lease as lessor or lessee with or without option to purchase or renew for a term within or extending beyond the term of the trust.

Trust Agreement of Nancy L. Ward

CHARLESTON 257493v2

Page 9

NW

11. To subdivide, develop, or dedicate real property to public use or to make or obtain the vacation of plats and adjust boundaries, to adjust differences in valuation on exchange or partition by giving or receiving consideration, and to dedicate easements to public use without consideration.
12. To make ordinary or extraordinary repairs or alterations in buildings or other structures, to demolish any improvements, to raze existing or erect new party walls or buildings.
13. To continue and operate any business owned by the Settlor at the Settlor's death and to do any and all things deemed needful or appropriate by the Trustee, including the power to incorporate the business and to put additional capital into the business, for such time as it shall deem advisable, without liability for loss resulting from the continuance or operation of the business except for its own negligence; and to close out, liquidate or sell the business at such time and upon such terms as it shall deem best.
14. To collect, receive, and receipt for rents, issues, profits, and income of the Trust Estate.
15. To insure the assets of the Trust Estate against damage or loss and the Trustee against liability with respect to third persons.
16. In buying and selling assets, in lending and borrowing money, and in all other transactions, irrespective of the occupancy by the same person of dual positions, to deal with itself in its separate, or any fiduciary capacity.
17. To compromise, adjust, arbitrate, sue on or defend, abandon, or otherwise deal with and settle claims in favor of or against the Trust Estate as the Trustee shall deem best.
18. To employ and compensate agents, accountants, investment advisers, brokers, attorneys-in-fact, attorneys-at-law, tax specialists, realtors, and other assistants and advisors deemed by the Trustee needful for the proper administration of the Trust Estate, and to do so without liability for any neglect, omission, misconduct, or default of any such agent or professional representative provided such person was selected and retained with reasonable care.
19. To determine what shall be fairly and equitably charged or credited to income and what to principal.
20. To hold and retain the principal of the Trust Estate undivided until actual division shall become necessary in order to make distributions; to hold, manage, invest, and account for the several shares or parts thereof by appropriate entries on the Trustee's books of account; and to allocate to each share or part of share its proportionate part of all receipts and expenses; provided, however, the carrying of several trusts as one shall not defer the vesting in title or in possession of any share or part of share thereof.

NW

21. To make payment in cash or in kind, or partly in cash and partly in kind upon any division or distribution of the Trust Estate (including the satisfaction of any pecuniary distribution) without regard to the income tax basis of any specific property allocated to any beneficiary and to value and appraise any asset and to distribute such asset in kind at its appraised value; and when dividing fractional interests in property among several beneficiaries to allocate entire interests in some property to one beneficiary and entire interests in other property to another beneficiary or beneficiaries.

22. In general, to exercise all powers in the management of the Trust Estate which any individual could exercise in his or her own right, upon such terms and conditions as it may reasonably deem best, and to do all acts which it may deem reasonably necessary or proper to carry out the purposes of this Trust Agreement.

23. To purchase property, real or personal, from the Settlor's general estate upon such terms and conditions as to price and terms of payment as the Settlor's executors or administrators and the Trustee shall agree, to hold the property so purchased as a part of the Trust Estate although it may not qualify as an authorized trust investment except for this provision, and to dispose of such property as and when the Trustee shall deem advisable. The fact that the Settlor's executors or administrators and the Trustee are the same shall in no way affect the validity of this provision.

24. To lend funds to the Settlor's general estate upon such terms and conditions as to interest rates, maturities, and security as the Settlor's executors or administrators and the Trustee shall agree, the fact that they may be the same in no way affecting the validity of this provision.

25. To receive property bequeathed, devised or donated to the Trustee by the Settlor or any other person; to receive the proceeds of any insurance policy which names the Trustee as beneficiary; to execute all necessary receipts and releases to Executors, donors, insurance companies and other parties adding property to the Trust Estate.

26. To combine assets of two or more trusts if the provisions and terms of each trust are substantially identical, and to administer them as a single trust, if the Trustee reasonably determines that the administration as a single trust is consistent with the Settlor's intent, and facilitates the trust's administration without defeating or impairing the interests of the beneficiaries.

27. To divide any trust into separate shares or separate trusts or to create separate trusts if the Trustee reasonably deems it appropriate and the division or creation is consistent with the Settlor's intent, and facilitates the trust's administration without defeating or impairing the interests of the beneficiaries.

28. To divide property in any trust being held hereunder with an inclusion ratio, as defined in section 2642(a)(1) of the Internal Revenue Code of 1986, as from time to time amended or under similar future legislation, of neither one nor zero into two separate trusts representing two fractional shares of the property being divided, one to have an inclusion ratio of one and the other to have an inclusion ratio of zero, to create trusts to receive property with an

NW

inclusion ratio of either one or zero and if this cannot be done to refuse to accept property which does not have a matching inclusion ratio to the receiving trust's ratio, all as the Trustee in its sole discretion deems best.

29. If the Trustee shall act as the Executor of the Settlor's estate, to elect to allocate any portion or all the Settlor's generation-skipping transfer exemption provided for in Code section 2631 or under similar future legislation, in effect at the time of the Settlor's death, to any portion or all of any other trusts or bequests in the Settlor's Will or any other transfer which the Settlor is the transferor for purposes of the generation-skipping tax. Generally, the Settlor anticipates that the Settlor's Executor will elect to allocate this exemption first to direct skips as defined in Code section 2612, then to the Family Trust, unless it would be inadvisable based on all the circumstances at the time of making the allocation; and to make the special election under section 2652(a)(3) of the Code to the extent the Settlor's Executor deems in the best interest of the Settlor's estate.

ARTICLE XIV

Trustee's Discretion to Allow Beneficiary or Beneficiaries to Occupy Residential Real Estate. The Trustee may in its discretion permit any beneficiary or beneficiaries to occupy rent free any residence constituting a part of the trust assets for such beneficiary or beneficiaries and to pay the real estate taxes thereon, expenses of maintaining the residence in suitable repair and condition and hazard insurance premiums on the residence. Provided, however, the Trustee shall not exercise this power in any way which would deprive the husband under the Marital Trust of the beneficial enjoyment of the Marital Trust and the husband shall have the right to limit, restrict or terminate the Trustee's exercises of this power if they interfere with such beneficial enjoyment.

ARTICLE XV

Marital Deduction Savings Clause for the Marital Trust. It is expressly provided that the grant of rights, powers, privileges and authority to the Trustee in connection with the imposition of duties upon the Trustee by any provision of this Trust Agreement or by any statute relating thereto shall not be effective if and to the extent that the same, if effective, would disqualify the marital deduction as established in the Marital Trust hereof. It is the Settlor's intention that the Settlor's husband under the provisions of the Marital Trust have substantially that degree of beneficial enjoyment of the Trust Estate during his lifetime which the principles of the law of trusts accord to a person who is unqualifiedly designated as the life beneficiary of a trust and the Trustee shall not exercise its discretion in a manner which is not in accord with this expressed intention. The Trustee shall invest the Trust Estate so it will produce for the Settlor's husband during his lifetime an income or use which is consistent with the value of the Trust Estate and with its preservation. It is expressly provided that the Trustee shall not in the exercise of its discretion make any determination inconsistent with the foregoing.

ARTICLE XVI

Provision for Trustee to Act as Trustee for Beneficiary Under Age Twenty-One. If any share hereunder becomes distributable to a beneficiary who has not attained the age of

ND

5-1

Twenty-one (21), such share shall immediately vest in the beneficiary, but notwithstanding the provisions herein, the Trustee shall retain possession of the share in trust for the beneficiary until the beneficiary attains the age of Twenty-one (21), using so much of the net income and principal of the share as the Trustee deems necessary to provide for the medical care, education, support and maintenance in reasonable comfort of the beneficiary, taking into consideration to the extent the Trustee deems advisable any other income or resources of the beneficiary or his or her parents known to the Trustee. Any income not so paid or applied shall be accumulated and added to principal. The beneficiary's share shall be paid over and distributed to the beneficiary upon attaining age Twenty-one (21), or if he or she shall sooner die, to his or her executors or administrators. The Trustee shall have with respect to each share so retained all the powers and discretions it had with respect to the trusts created herein generally.

ARTICLE XVII

Trustee's Discretion in Making Payments to a Person Under Age Twenty-One, Incompetent, or Incapacitated Person. In case the income or principal payment under any trust created hereunder or any share thereof shall become payable to a person under the age of Twenty-one (21), or to a person under legal disability, or to a person not adjudicated incompetent, but who, by reason of illness or mental or physical disability, is, in the opinion of the Trustee unable properly to administer such amounts, then such amounts shall be paid out by the Trustee in such of the following ways as the Trustee deems best: (1) directly to the beneficiary; (2) to the legally appointed guardian of the beneficiary; (3) to some relative or friend for the medical care, education, support and maintenance in reasonable comfort of the beneficiary; (4) by the Trustee using such amounts directly for the beneficiary's care, support and education; (5) to a custodian for the beneficiary under the Uniform Gifts or Transfers to Minors Act. Provided, however, that the Trustee shall not make any payment from the Marital Trust under (3) above.

ARTICLE XVIII

Power of Trustee to Resign During Settlor's Lifetime. Any Trustee may resign this trusteeship during the Settlor's lifetime by giving the Settlor Thirty (30) days notice in writing delivered to the Settlor in person or mailed to the Settlor's last known address, the resignation to become effective as hereinafter provided. Upon receipt of such notice, the Settlor shall appoint a successor Trustee. Upon the failure of the Settlor to appoint a successor Trustee who accepts the trust within Thirty (30) days from the time notice was delivered in person or mailed to the Settlor, the Trustee may resign to the court having jurisdiction over this trust, which court may, if it deems advisable, accept the resignation and appoint a successor Trustee which shall be an individual as successor to an individual trustee or a bank or trust company qualified to do business in the state of the Settlor's domicile as successor to a corporate trustee. Upon the appointment of and acceptance by the successor Trustee, the original Trustee shall pay over, deliver, assign, transfer or convey to such successor Trustee the Trust Estate and make a full and proper accounting to the Settlor, whereupon its resignation shall become effective. The substitute or successor Trustee upon acceptance of this trust and the Trust Estate shall succeed to and have all the rights, powers and duties, authority and responsibility conferred upon the Trustee originally named herein.

HW

ARTICLE XIX

Settlor During Lifetime to Designate Substitute or Successor Trustee. The Settlor during the Settlor's lifetime may name a substitute or successor Trustee by delivery to any Trustee herein a notice naming the successor or substitute Trustee and indicating an intent to replace the Trustee named. Upon receipt of such notice the Trustee named shall pay over, deliver, assign, transfer or convey to such substitute or successor Trustee (which accepts the appointment as trustee), the Trust Estate and make a full and proper accounting to the Settlor, whereupon the Trustee named shall be discharged and have no further responsibility under this Trust Agreement. Upon the failure of the Trustee to make such conveyance the Settlor may apply to the court having jurisdiction of this trust and such court may compel the conveyance by the Trustee. The substitute or successor Trustee upon acceptance of this trust and the Trust Estate shall succeed to and possess all the rights, powers and duties, authority and responsibility conferred upon the Trustee originally named herein.

ARTICLE XX

Definitions of Family. The following definitions shall be used to define the family:

1. **Definition of Children.** For purposes of this Trust, "children" of the Settlor means ELIZABETH A. DIEMER and GARETT C. DIEMER. For purposes of this Trust, "children" of the Settlor's husband means STEPHANIE L. WARD, DAVID D. WARD and BRIAN C. WARD, but "children" does not mean STEPHEN A. WARD and JEREMY W. WARD. "Issue" and "descendants" mean the lawful blood descendants in any degree of the ancestor designated; however, it does not include STEPHEN A. WARD and JEREMY W. WARD or their respective issue.

2. **Definition of Per Stirpes.** The term "per stirpes" as used herein has the identical meaning as the term "taking by representation" as defined in the South Carolina Probate Code.

ARTICLE XXI

Definition of Words Relating to the Internal Revenue Code. As used herein, the words "gross estate," "adjusted gross estate," "taxable estate," "unified credit" ("unified credit" shall also mean "applicable credit amount"), "applicable exclusion amount," "state death tax credit," "maximum marital deduction," "marital deduction," "pass," "qualified terminable interest," "qualified terminable interest property," and any other word or words which from the context in which it or they are used refer to the Internal Revenue Code shall have the same meaning as such words have for the purposes of applying the Internal Revenue Code to the Settlor's estate. For purposes of this Trust Agreement, the Settlor's "available generation-skipping transfer exemption" means the generation-skipping transfer tax exemption provided in section 2631 of the Internal Revenue Code of 1986, as amended, in effect at the time of the Settlor's death reduced by the aggregate of (1) the amount, if any, of the Settlor's exemption allocated to lifetime transfers of the Settlor by the Settlor or by operation of law, and (2) the amount, if any, the Settlor has specifically allocated to other property of the Settlor's gross estate for federal estate tax purposes. For purposes of this Trust Agreement if at the time of the Settlor's death the Settlor has made gifts with an inclusion ratio of greater than zero for which

WV

the gift tax return due date has not expired (including extensions) and the Settlor has not yet filed a return, it shall be deemed that the Settlor's generation-skipping transfer exemption has been allocated to these transfers to the extent necessary (and possible) to exempt the transfer(s) from generation-skipping transfer tax. Reference to sections of the Internal Revenue Code and to the Internal Revenue Code shall refer to the Internal Revenue Code amended to the date of the Settlor's death.

ARTICLE XXII

Simultaneous Death Provision Presuming Beneficiary Predeceases Settlor. If any beneficiary and the Settlor should die under such circumstances as would make it doubtful whether the beneficiary or the Settlor died first, then it shall be conclusively presumed for the purposes of this Trust that the beneficiary predeceased the Settlor.

ARTICLE XXIII

Payment of Funeral Expenses and Expenses of Last Illness of Income Beneficiary. On the death of any person entitled to income or support from any Trust hereunder, the Trustee is authorized to pay the funeral expenses and the expenses of the last illness of such person from the principal of the Trust from which such person was entitled to income or support.

ARTICLE XXIV

State Law to Govern. This Trust Agreement and the trusts created hereby shall be construed, regulated and governed by and in accordance with the laws of the State of South Carolina.

ARTICLE XXV

Agreement for Mutual Wills and Trusts. The Agreement for Mutual Wills and Trusts dated as of even date herewith between STEPHEN D. WARD and NANCY L. WARD is incorporated by reference into this First Amendment and Restatement of Trust Agreement of Nancy L. Ward.

NW

Testimonium Clause. IN WITNESS WHEREOF, the Settlor and the Trustee have executed this Trust Agreement.

WITNESSES:

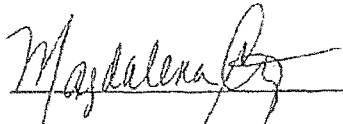
Jeanne A. Pusey
Magdalena Cruz
Jeanne A. Pusey
Magdalena Cruz

Nancy L. Ward
NANCY L. WARD, SETTLOR

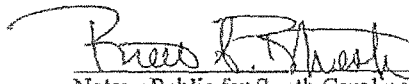
Nancy L. Ward
NANCY L. WARD, TRUSTEE

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON) PROBATE

Personally appeared the undersigned witness and made oath that She saw the within named Settlor and Trustee sign, seal and as their act and deed deliver the within Trust Agreement and that deponent with the other witness whose name is subscribed above witnessed the execution thereof.



Sworn to before me this
21st day of April, 2005



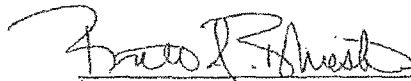
Notary Public for South Carolina

My Commission expires: July 24, 2012

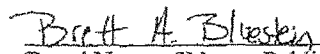
STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON) ACKNOWLEDGMENT

I, a Notary Public, within and for the State and County aforesaid do hereby certify that the foregoing instrument of writing was this day produced to me in the above State and County and was executed and acknowledged by NANCY L. WARD, as Settlor and Trustee, to be the free and voluntary act and deed of the Settlor and Trustee.

WITNESS my signature this 21st day of April, 2005.



Signature of Notary Public



Typed Name of Notary Public

Notary Public for: South Carolina

My commission expires: July 24, 2012

EXHIBIT 6

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON) AGREEMENT FOR MUTUAL WILLS
) AND TRUSTS

THIS AGREEMENT FOR MUTUAL WILLS AND TRUSTS made this 21st day of April, 2005, between Stephen D. Ward of the County of Charleston, State of South Carolina (hereinafter called "Husband") and Nancy L. Ward of the County of Charleston, State of South Carolina (hereinafter called "Wife").

I. DEFINITIONS. In addition to any other terms whose definitions are fixed and defined by this Agreement, each of the following defined terms, when used in this Agreement with an initial capital letter, shall have the meaning ascribed thereto by this paragraph:

1.1 "Agreement" means this Agreement for Mutual Wills and Trusts together with all exhibits attached hereto.

1.2 "Husband" means Stephen D. Ward.

1.3 "Husband's Trust" means the Trust Agreement of Stephen D. Ward of even date herewith, a copy of which is attached hereto as Exhibit 1.

1.4 "Husband's Will" means the Last Will and Testament of Stephen D. Ward of even date herewith, a copy of which is attached hereto as Exhibit 2.

1.5 "Parties" means Stephen D. Ward and Nancy L. Ward.

1.6 "Predecessor" means that person, as between the Husband and the Wife, who is first to die.

1.7 "Property" means all of the property of the Survivor at time of the Predecessor's death, together with all property acquired by the Survivor because of the Predecessor's death.

1.8 "Survivor" means that person, as between the Husband and the Wife, who is last to die.

1.9 "Wife" means Nancy L. Ward.

1.10 "Wife's Trust" means the Nancy Diemer Trust Dated April 28, 1998, as amended by the First Amendment and Restatement of Trust Agreement of Nancy L. Ward of even date herewith, copies of which are attached hereto as Exhibit 3 and Exhibit 4, respectively.

1.11 "Wife's Will" means the Last Will and Testament of Nancy L. Ward of even date herewith, a copy of which is attached hereto as Exhibit 5.

CHARLESTON 257613v1

1



0581

COA 0660

II. RECITALS.

2.1 Husband and Wife are now married.

2.2. Husband and Wife each have children from a former marriage.

2.3 Husband and Wife mutually desire for the Survivor to have full use of the Property during his or her life with the Property after the death of the Survivor to be distributed as provided for in the Trust Agreement of Stephen D. Ward (dated as of even date herewith) and the First Amendment and Restatement of Trust Agreement of Nancy L. Ward (dated as of even date herewith).

2.4 Husband and Wife have executed their Wills and Trusts, copies of which have been annexed hereto as Exhibits 1 through 5.

2.5 The Wills and Trusts of the Parties have been made as they are on the condition that the disposition of the Property be made according to their Wills and Trusts, unless this Agreement is altered, amended or revoked as provided for hereinafter.

2.6 This Agreement is made to insure that the mutual plan of the Parties shall not be altered by acts subsequent to date hereof, except as agreed upon between the Parties.

III. ALTERATION, AMENDMENT AND REVOCATION OF WILLS. The Parties mutually covenant with each other and agree that:

3.1 While both Husband and Wife are living, except by amendment, modification or revocation of this Agreement as hereinafter provided, neither he nor she shall in any manner alter, amend or revoke his or her Will or Trust, including amendment by codicil, alteration by defacement, or revocation by destruction.

3.2 Upon the Predecessor's death, this Agreement and the Survivor's Will and Trust shall become irrevocable and the Survivor shall have no right or power to thereafter alter, amend or revoke this Agreement or his or her Will or Trust.

IV. SURVIVOR'S AFFIRMATIVE COVENANTS. The Parties mutually covenant with each other and agree that if he or she is the Survivor of them:

4.1 He or she will take such measures as may be necessary or required to maintain his or her Will and Trust in full force until his or her death and as will maintain title to the Property in a form that shall cause the same, at the Survivor's death, to be disposed of according to the terms and provisions of his or her Will and Trust annexed hereto.

4.2 If he or she remarries after the death of the Predecessor, he or she will:

4.2.1 Thereafter ratify his or her Will and Trust in the form and with the provisions contained in his or her Will and Trust annexed hereto; and

Handwritten initials: NW, JSW

4.2.2 As a condition of such re-marriage, require any person he or she remarries to legally and unconditionally waive his or her right to an Elective Share in the Property provided to them under S.C. Code Ann. Section 62-2-201 (1976, as amended from time to time).

V. NEGATIVE COVENANTS. The Parties mutually covenant with each other and agree that if he or she is the survivor of them, he or she will not create, commit, permit, or suffer to exist:

5.1 Any condition that would alter the plan of distribution contained in his or her Will or Trust annexed hereto;

5.2 Any condition that would cause the alteration, amendment or revocation of his or her Will or Trust annexed hereto;

5.3 The dissipation of any of the Property other than through consumption by him or her;

5.4 Any transfer of the Property, or any part thereof from the Survivor to any other person, including any gift to a spouse, child or relative, provided, nothing herein contained shall be construed as prohibiting him or her from making customary and reasonable gifts to a spouse or child;

5.5 Any transfer of title to the Property or any part thereof to the name or joint name of any other person or party;

5.6 Any transfer of title to the Property, or any part thereof, in such manner as would cause the Property to be transmitted upon the Survivor's death, by any means other than through the provisions of his or her Will or Trust annexed hereto; and

5.7 Any investment of the Property or any part thereof, in any form of investment that would or may cause the same to be transmitted upon his or her death through any means other than according to the terms and provisions of his or her Will or Trust annexed hereto.

VI. FORM OF AMENDMENT OR MODIFICATION. The ability of one of the Parties to this Agreement to unilaterally rescind and revoke this Agreement and their Will or Trust by giving notice to the non-revoking person before death as permitted in *Wilson v. Gordon*, 53 S.E. 79 (S.C. 1905), is not a sufficient method to allow the parties to this Agreement to revoke their respective Will or Trust and this Agreement. No agreement between the Parties shall be effective to alter, amend, modify or revoke this Agreement, unless such Agreement is reduced to writing and signed by both Parties.

VII. MISCELLANEOUS.

7.1 Governing Law. This Agreement is made and shall be construed under and in accordance with the laws of the State of South Carolina.

AW
JEW

7.2 Non-assignability. This Agreement shall not be assignable and any attempt to assign the same by either party shall be ineffective, null and void.

7.3 Entire Agreement. This Agreement supersedes all prior discussions and agreements between the Parties and contains the sole and entire understanding between them with regard to matters contained herein. All promises, inducements, offers, agreements, commitments and representations heretofore made between such Parties are merged into this Agreement.

7.4 Exhibits. Each and every exhibit referred to or otherwise mentioned in this Agreement is attached to this Agreement and is and shall be construed to be made a part of this Agreement by such reference or other mention at each point at which such reference or other mention occurs, in the same manner and with the same effect as if such exhibit were set forth in full and at length every time it is referred to or otherwise mentioned.

7.5 Captions. All captions, headings, paragraph and subparagraph numbers and letters and other reference numbers or letters are solely for the purpose of facilitating reference to this Agreement and shall not supplement, limit or otherwise vary in any respect the text of this Agreement.

Handwritten initials: NW

IN WITNESS WHEREOF, we have hereunto set our hands and seals on the day and year first written above.

WITNESSES:

Jeane A. Pusey

S. D. Ward

STEPHEN D. WARD

Margaret C. Ward

Nancy L. Ward

NANCY L. WARD

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

PROBATE

PERSONALLY appeared before me the undersigned and made oath that (s)he saw the within named Stephen D. Ward and Nancy L. Ward, sign, seal and as their act and deed deliver the within written instrument and that (s)he with Jeane Pusey witnessed the execution thereof.

Margaret C. Ward

SWORN to before me this 21st day
of April, 2005.

Theresa B. Blum

Notary Public for South Carolina

My Commission Expires: July 24, 2012

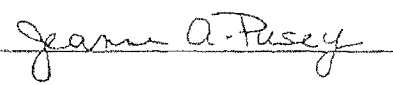
STATE OF SOUTH CAROLINA)
) ACKNOWLEDGMENT
COUNTY OF CHARLESTON)

The undersigned acknowledge:

1. The foregoing Agreement for Mutual Wills and Trusts was prepared by Brett A. Bluestein, attorney at law.
2. The Wills of the undersigned were prepared by Brett A. Bluestein, attorney at law.
3. The Trust Agreement of Stephen D. Ward and the First Amendment and Restatement of Trust Agreement of Nancy L. Ward (collectively, the "Trusts") were prepared by Brett A. Bluestein, attorney at law.
4. The foregoing Agreement for Mutual Wills and Trusts, the Wills and the Trusts were prepared based on information provided to the drafter by and at the direction of the undersigned.
5. The undersigned acknowledge that we have been advised by Brett A. Bluestein, attorney at law, and we understand that he as the drafter of these instruments has a conflict of interest; that our individual and collective interests may be best served by the employment of separate and independent counsel for each of us; we acknowledge the existence of a conflict of interest between us; in spite of the advice and notice of Brett A. Bluestein, attorney at law, we have requested him to prepare the Agreement for Mutual Wills and Trusts, the Wills and the Trusts for us and we, and each of us, do knowingly consent to his drafting, presenting and interpreting the same for and to us; and, each of us do hereby waive and release the said Brett A. Bluestein from any claim we may have because of the drafting of the Agreement for Mutual Wills and Trusts the Wills and the Trusts and presenting the same to us with knowledge that a conflict of interest, actual or potential, legally exists between us.

IN WITNESS WHEREOF, we have hereunto set our hands and seals on the 21st day of April, 2005.

In the Presence of:

 _____	 _____ STEPHEN D. WARD
 _____	 _____ NANCY/L. WARD

CHARLESTON 257618v1

EXHIBIT 1

Trust Agreement of Stephen D. Ward

CHARLESTON 157618v1

EXHIBIT 2

Last Will and Testament of Stephen D. Ward

CHARLESTON 257618v1

EXHIBIT 3
Nancy Diemer Trust

CHARLESTON 257618v1

EXHIBIT 4

First Amendment and Restatement of Trust Agreement of Nancy L. Ward

CHARLESTON 257613v1

EXHIBIT 5

Last Will and Testament of Nancy L. Ward

CHARLESTON 257615-4

EXHIBIT 7



8P0274483

RMC BK 0274 Pg 483 : pg 1 -

RE-REC BK 0277 Pg 830 : pg 1 -

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

PROBATE COURT

IN THE MATTER: ESTATE OF NANCY L. WARD
CASE NUMBER: 2011 ES-10-000965

DEED OF DISTRIBUTION

WHEREAS, Nancy L. Ward, the decedent, departed this life on June 4, 2011, testate and seized and possessed of the real property hereinbelow described; and

WHEREAS, the Estate of decedent is being administered in the Probate Court for Charleston County, South Carolina under Case No. 2011 ES-10-000965; and

WHEREAS, the undersigned Stephen D. Ward ("Personal Representative") is the duly appointed Personal Representative of the Estate of Nancy L. Ward; and

WHEREAS, the Grantee herein is the beneficiary of the Decedent.

NOW, THEREFORE, in accordance with the laws of the State of South Carolina, the Personal Representative, has granted, bargained, sold, and released, and by these presents does grant, bargain, sell and release the undivided one-half (1/2) interest owned by Nancy L. Ward, subject to any and all Restrictions, Covenants, Conditions, Easements, Rights of Way, and all other matters affecting the subject property of record, in the Office of the RMC for Charleston County, South Carolina, unto STEPHEN D. WARD, TRUSTEE OF THE NANCY L. WARD FAMILY TRUST UNDER FIRST AMENDMENT AND RESTATEMENT OF TRUST AGREEMENT OF NANCY L. WARD DATED APRIL 21, 2005, the following described property, to-wit:

SEE EXHIBIT "A" ATTACHED HERETO
AND MADE A PART HEREOF BY THIS REFERENCE

* TOGETHER with, all and singular, the said Premises before mentioned unto the said, STEPHEN D. WARD, TRUSTEE OF THE NANCY L. WARD FAMILY TRUST UNDER FIRST AMENDMENT AND RESTATEMENT OF TRUST AGREEMENT OF NANCY L. WARD DATED APRIL 21, 2005, its successors and assigns, forever.

(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK)

* RE-RECORDING TO CORRECT SCRIVENER'S ERROR IN THE NAME OF THE PERSONAL REPRESENTATIVE AND TRUSTEE

CHARLESTON 139722v1



0592

COA 0671

IN WITNESS WHEREOF, the undersigned as the Personal Representative of the Estate of Nancy L. Ward, has executed this Deed of Distribution this 24 day of August in the year of our Lord two thousand and twelve.

WITNESSES:

Stacy Gray
Rhonda R. Jolley

ESTATE OF NANCY L. WARD

By: Stephen D. Ward
Its: Personal Representative

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

ACKNOWLEDGMENT

I, the undersigned Notary Public for the State of South Carolina, do hereby certify that Stephen D. Ward as Personal Representative of the Estate of Nancy L. Ward, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Subscribed to and sworn before me this 24 day of August, 2012

Rhonda R. Jolley
Notary Public for South Carolina
My commission expires: 12/16/2012

EXHIBIT "A"

ALL that certain lot, piece or parcel of land, situate, lying and being on Seabrook Island, Charleston County, South Carolina, and known and designated as Lot 8, Block 24, on a plat by E.M. Seabrook, Jr., C.E., and L.S, entitled: "SEABROOK ISLAND CHARLESTON COUNTY, SOUTH CAROLINA PLAT OF LOTS 1-11 BLOCK 24 AND LOTS 1-11 BLOCK 25" dated January 19, 1978 and recorded February 10, 1978 in Plat Book AK, Page 81, in the RMC Office for Charleston County, S.C. SAID lot having the size, shape, dimensions, buttings, and boundings more or less as are shown on said plat, which is specifically incorporated herein by reference.

SUBJECT to any and all Restrictions, Covenants, Conditions, Easements, Rights of Way, and all other matters affecting the subject property of record, in the Office of the RMC for Charleston County, South Carolina.

BEING the same undivided one-half interest conveyed to Nancy L. Ward by deed of Stephen D. Ward dated April 27, 2001, and recorded May 1, 2001, in Book F-370, Page 140, in the RMC Office for Charleston County, S.C.

TMS No. 147-11-00-056

Grantee's address: 2412 High Hammock Road
Seabrook Island SC 29455

RMC BK 0274 Pg 483 : Pg 3 *

RE-REC BK 0277 Pg 830 : Pg 3 *

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

AFFIDAVIT RE DEED RECORDING FEE

PERSONALLY APPEARED before me the undersigned, who being duly sworn, deposes and says:

1. I have read the information on this Affidavit and I understand such information.
2. The property being transferred by STEPHEN D. WARD, AS THE PERSONAL REPRESENTATIVE OF THE ESTATE OF NANCY L. WARD to STEVEN D. WARD, TRUSTEE OF THE NANCY L. WARD FAMILY TRUST UNDER FIRST AMENDMENT AND RESTATEMENT OF TRUST AGREEMENT OF NANCY L. WARD DATED APRIL 21, 2005 on August ____, 2012, is known as 2412 High Hammock Road, Seabrook Island, Charleston County, South Carolina.
3. CHECK ONE of the following:
(a) ☐ subject to the deed recording fee as a transfer for consideration paid or to be paid in money or money's worth.
(b) ☐ subject to the deed recording fee as a transfer between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, or is a transfer to a trust or as a distribution to a trust beneficiary.
(c) ☒ EXEMPT from the deed recording fee because of; if exempt, skip items 4-7 and go to item 8 of this Affidavit.
4. Check one of the following if either 3(a) or 3(b) has been checked:
(a) ☐ The fee is computed on the consideration paid or to be paid in money or money's worth in the amount of \$ _____.
(b) ☐ The fee is computed on the fair market value of the realty which is \$ _____.
(c) ☐ The fee is computed on the fair market value of the realty as established for property tax purposes which is \$ _____.
(c) ☒ EXEMPT from the deed recording fee because of; if exempt, skip items 4-7 and go to item 8 of this Affidavit.
5. Check YES ☐ or NO ☐ to the following: A lien or encumbrance existed on the land, tenement, or realty before the transfer and remained on the land, tenement, or realty after the transfer. If YES, the amount of the outstanding balance of this lien or encumbrance is \$ _____.
(c) ☒ EXEMPT from the deed recording fee because of; if exempt, skip items 4-7 and go to item 8 of this Affidavit.
6. The DEED Recording Fee is computed as follows:
(a) \$ _____ the amount listed in 4 above; LESS
(b) \$ -0- _____ the amount listed in 5 above (if none, show 0);
(c) \$ _____ Subtract 6(b) from 6(a) and place result.
7. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as: Attorney
8. Check if Property other than Real Property is being transferred on this Deed.
(A) ☐ Mobile Home
(B) ☐ Other
9. ☒ DEED OF DISTRIBUTION - ATTORNEY'S AFFIDAVIT: Estate of Nancy L. Ward deceased CASE NUMBER 2011 ES-10-000965 Personally appeared before me the undersigned attorney who, being duly sworn, certified that (s)he is licensed to practice law in the State of South Carolina; that (s)he has prepared the Deed of Distribution for the Personal Representative in the Estate of Nancy L. Ward deceased and that the grantee(s) therein are correct and confirm to the estate file for the above named decedent.
10. I understand that a person required to furnish this Affidavit who willfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

SWORN TO before me this
24 day of August 2012.

Theresa J. McLean
Notary Public for South Carolina
Commission Expires: 11-13-12

Rhonda R. Tapley
Rhonda R. Tapley

CHARLESTON 339722v1

RMC BK 0274 Pg 483 : Pg 4 *

RE-REC BK 0277 Pg 830 : Pg 4 *

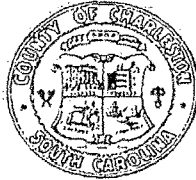
RECORDER'S PAGE

NOTE: This page MUST remain
with the original document

Filed By:

MCNAIR LAW FIRM, P.A.

100 CALHOUN ST.
CHARLESTON SC 29401 (BOX)



RECORDED

Date: August 29, 2012
Time: 3:45:12 PM

Book	Page	DocType
0274	483	Deed/Dist

Charlie Lybrand, Register
Charleston County, SC

MAKER:

WARD NANCY L EST

RECIPIENT:

WARD STEPHEN D TR AL

Note:

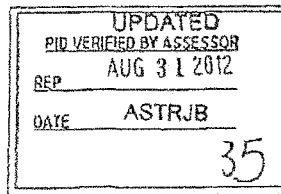
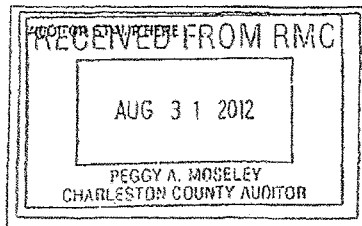
of Pages: 5

Recording Fee	\$ 10.00
State Fee	<EXEMPT>
County Fee	<EXEMPT>
Extra Pages	\$ -
Postage	\$ -
Chattel	\$ -
TOTAL	\$ 10.00

Original Book:

Original Page:

DRAWER Drawer 1
CLERK KLH



0274
Book

483
Page

08/29/2012
Recorded Date

5
Pgs

Original Book

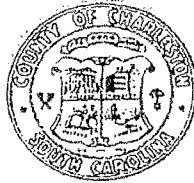
Original Page

D
Doc Type

16:45:12
Recorded Time

RECORDER'S PAGE

NOTE: This page MUST remain with the original document



dyi

Filed By:

MCNAIR LAW FIRM, P.A.

100 CALHOUN ST.

CHARLESTON SC 29401 (BOX)

RECORDED

Date: September 14, 2012

Time: 1:38:57 PM

Book	Page	DocType
0277	830	Re-Rec/Deed/Dis

Charlie Lybrand, Register
Charleston County, SC

MAKER:

WARD NANCY L EST

Note:

of Pages: 6

RECIPIENT:

WARD STEPHEN D TR AL

Recording Fee \$ 10.00

State Fee \$ -

County Fee \$ -

Extra Pages \$ -

Postage \$ -

Chattel \$ -

TOTAL \$ 10.00

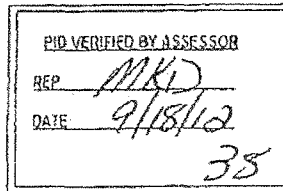
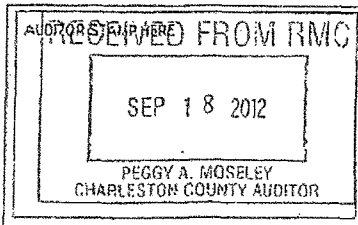
Original Book:

0274

Original Page:

483

DRAWER Drawer 1
CLERK KLH



0277
Book



830
Page



09/14/2012
Recorded Date



6
Pages



0274
Original Book



483
Original Page



0
Doc Type



1:38:57
Recorded Time

CERTIFIED TRUE COPY
ELAINE H. BOZMAN
REGISTER OF DEEDS
CHARLESTON COUNTY, SC

DATE: Jan 31, 2018
BY: [Signature]

843-958-4800 101 MEETING STREET CHARLESTON, SC 29401 www.charlestoncounty.org

RE-REC BK 0277 Pg 830 : pg 6 *

ESTATE PLANNING DOCUMENTS
FOR
STEPHEN D. WARD & NANCY L. WARD

PENGAD 800-631-6989
EXHIBIT #8
WARD
4-18-2018

**ESTATE PLANNING DOCUMENTS
FOR
STEPHEN D. WARD & NANCY L. WARD**

TABLE OF CONTENTS

1. Last Will and Testament of Stephen D. Ward
2. Last Will and Testament of Nancy L. Ward
3. Trust Agreement of Stephen D. Ward
4. First Amendment and Restatement of Trust Agreement of Nancy L. Ward
5. Agreement For Mutual Wills and Trusts
6. Financial Springing Power of Attorney for Stephen D. Ward
7. Financial Springing Power of Attorney for Nancy L. Ward
8. Health Care Power of Attorney Stephen D. Ward
9. Health Care Power of Attorney Nancy L. Ward
10. Declaration of a Desire for a Natural Death for Stephen D. Ward
11. Declaration of a Desire for a Natural Death for Nancy L. Ward

1. Last Will and Testament of Stephen D. Ward

**LAST WILL AND TESTAMENT
OF
STEPHEN D. WARD**

Introductory Clause. I, **STEPHEN D. WARD**, a resident of and domiciled in the County of Charleston and State of South Carolina, do hereby make, publish and declare this to be my Last Will and Testament, hereby revoking all Wills and Codicils at any time heretofore made by me.

I am married to **NANCY L. WARD**.

I have five living children: **STEPHANIE L. WARD; DAVID D. WARD; BRIAN C. WARD; STEPHEN A. WARD;** and **JEREMY W. WARD**. My children **STEPHEN A. WARD** and **JEREMY W. WARD** and their respective issue shall not receive any benefits under this Will as they will be provided for by their mother with assets she received from me pursuant to our divorce. Their omission is intentional.

I have two living step-children: **ELIZABETH A. DIEMER;** and **GARETT C. DIEMER**.

ITEM I

Direction to Pay Debts with Discretionary Refinancing by Executor. I direct that all my legally enforceable debts, secured and unsecured, be paid as soon as practicable after my death. I direct that my Executor may cause any debt to be carried, renewed and refinanced from time to time upon such terms and with such securities for its repayment as my Executor may deem advisable taking into consideration the best interest of the beneficiaries hereunder. If at the time of my death any of the real property herein devised is subject to any mortgage, I direct that the devisee taking such mortgaged property shall take it subject to such mortgage and that the devisee shall not be entitled to have the obligation secured thereby paid out of my general estate.

ITEM II

General Bequest of Personal and Household Effects With a Mandatory Memorandum. I give and bequeath all my personal and household effects of every kind including but not limited to furniture, appliances, furnishings, pictures, silverware, china, glass, books, jewelry, wearing apparel, boats, automobiles, and other vehicles, and all policies of fire, burglary, property damage, and other insurance on or in connection with the use of this property, as follows:

1. I may leave written memoranda disposing of certain items of my tangible personal property. Any such item of tangible personal property shall pass according to the terms of such memoranda in existence at the time of my death. If no such written memoranda is found or identified by my Executor within ninety (90) days after my Executor's qualification, it shall be conclusively presumed that there is no such memoranda and any subsequently discovered

memoranda shall be ineffective. Any property given and devised to a beneficiary who is not living at the time of my death and for whom no effective alternate provision has been made shall pass according to the provisions of the following paragraph, and not pursuant to any anti-lapse statute.

2. In default of such memoranda, or to the extent such memoranda do not completely or effectively dispose of such property, I give and bequeath the rest of my personal and household effects of every kind to my wife, **NANCY L. WARD**, for her lifetime, if she shall survive me. If my wife shall not survive me or upon my wife's death, I give and bequeath my personal and household effects that were acquired by me (prior to my marriage to my wife or by inheritance during my marriage to my wife) to my children **STEPHANIE L. WARD, DAVID D. WARD** and **BRIAN C. WARD** in approximately equal shares. If my wife shall not survive me or upon my wife's death, I give and bequeath my personal and household effects that were acquired by me and my wife during our marriage to **STEPHANIE L. WARD, DAVID D. WARD, BRIAN C. WARD, ELIZABETH A. DIEMER** and **GARETT C. DIEMER**, in five (5) approximately equal shares.

However, if any of the aforementioned individuals predecease the survivor of me and my wife, then the issue of the deceased individual surviving me and my wife shall take per stirpes the share their parent would have taken had he or she survived me and my wife. If any of **STEPHANIE L. WARD, DAVID D. WARD** or **BRIAN C. WARD** predecease the survivor of me and my wife and has no issue then living, the share of such predeceased individual shall be distributed per stirpes to my issue. If **ELIZABETH A. DIEMER** predeceases the survivor of me and my wife and has no issue then living, the shares of **ELIZABETH A. DIEMER** shall be distributed per stirpes to the issue of **GARETT C. DIEMER**, if any, and in default of issue to **GARETT C. DIEMER**. If **GARETT C. DIEMER** predeceases the survivor of me and my wife and has no issue then living, the shares of **GARETT C. DIEMER** shall be distributed per stirpes to the issue of **ELIZABETH A. DIEMER**, if any, and in default of issue to **ELIZABETH A. DIEMER**.

If any of the aforementioned individuals do not agree to the division of the property among themselves, my Executor shall make such division among them, the decision of my Executor to be in all respects binding upon them. If any beneficiary hereunder is a minor, my Executor may distribute such minor's share to such minor or for such minor's use to any person with whom such minor is residing or who has the care or control of such minor without further responsibility and the receipt of the person to whom it is distributed shall be a complete discharge of my Executor. The cost of packing and shipping such property shall be charged against my estate as an expense of administration.

ITEM III

Pour-Over Gift to Trustee of Testator's Inter Vivos Trust. I give, devise and bequeath all the rest, residue and remainder of my property of every kind and description (including lapsed legacies and devises), wherever situate and whether acquired before or after the execution of this Will, to the successor Trustee under that certain Trust Agreement between me as Settlor and me as Trustee executed prior to the execution of this Will on the 21st day of April, 2005. My Trustee shall add the property bequeathed and devised by this Item to the principal of

the above Trust and shall hold, administer and distribute the property in accordance with the provisions of the Trust Agreement, including any amendments thereto made before my death.

ITEM IV

Naming the Executor, Executor Succession, Executor's Fees and Other Matters. The provisions for naming the Executor, Executor succession, Executor's fees and other matters are set forth below:

1. **Naming an Individual Executor.** I hereby nominate, constitute and appoint as Executor of this my Last Will and Testament **NANCY L. WARD** and direct that she shall serve without bond.

2. **Naming Individual Successor or Substitute Executor.** If my individual Executor should fail to qualify as Executor hereunder, or for any reason should cease to act in such capacity, the successor or substitute Executor who shall also serve without bond shall be **DUDLEY M. WARD**.

3. **Final Succession If Individual Successor Executor Cannot Act.** If my individual successor Executor should fail to qualify as Executor hereunder, or for any reason should cease to act in such capacity, then the successor or substitute Executors who shall also serve without bond shall be **STEPHANIE L. WARD, DAVID D. WARD, and BRIAN C. WARD**. If any individual Executor named herein should fail to qualify as Executor hereunder, or for any reason should cease to act in such capacity, the remaining individual Executor(s) named herein shall continue to serve without a successor or substitute.

4. **Fee Schedule for Individual Executor.** For its services as Executor, my individual Executor shall receive no compensation but shall be entitled to reimbursement for reasonable expenses.

5. **Executor Voting Rights.** If there is more than one Executor serving, then the vote of the Executors for any action hereunder must be by majority action of the Executors. Provided, however, that if only two Executors shall be serving as co-Executors, then the Executors shall act with unanimity on all actions, unless the co-Executors shall have otherwise agreed in writing.

6. **Delegation Among Executors.** When there is more than one individual or entity serving as co-Executors, then any Executor may delegate to any other Executor the power to exercise any or all of the powers granted to the Executors in this Last Will and Testament, including those powers, which are discretionary, to the extent allowed by law. Any delegating Executor may revoke any such delegation with written notice to the other serving co-Executors. The delegation of any such power, as well as the revocation of any such delegation, shall be evidenced by an instrument in writing signed by the delegating co-Executor. As long as any such delegation is in effect, any of the delegated powers may be exercised by the Executor receiving such delegation with the same force and effect as if the delegating Executor had personally joined in the exercise of such power. Provided, however, that if such Executor, or co-

Executor, shall also be a current beneficiary and such delegation shall be deemed to create in that Executor a right that shall be deemed to be a general power of appointment, then such individual Executor shall not be vested with such right to delegate such power.

ITEM V

Definition of Executor. Whenever the word "Executor" or any modifying or substituted pronoun therefor is used in this my Will, such words and respective pronouns shall include both the singular and the plural, the masculine, feminine and neuter gender thereof, and shall apply equally to the Executor named herein and to any successor or substitute Executor acting hereunder, and such successor or substitute Executor shall possess all the rights, powers and duties, authority and responsibility conferred upon the Executor originally named herein.

ITEM VI

Powers for Executor. By way of illustration and not of limitation and in addition to any inherent, implied or statutory powers granted to Executors generally, my Executor is specifically authorized and empowered with respect to any property, real or personal, at any time held under any provision of this my Will: to allot, allocate between principal and income, assign, borrow, buy, care for, collect, compromise claims, contract with respect to, continue any business of mine, convey, convert, deal with, dispose of, enter into, exchange, hold, improve, incorporate any business of mine, invest, lease, manage, mortgage, grant and exercise options with respect to, take possession of, pledge, receive, release, repair, sell, sue for, to make distributions or divisions in cash or in kind or partly in each without regard to the income tax basis of such asset, and in general, to exercise all the powers in the management of my Estate which any individual could exercise in the management of similar property owned in his or her own right, upon such terms and conditions as to my Executor may seem best, and to execute and deliver any and all instruments and to do all acts which my Executor may deem proper or necessary to carry out the purposes of this my Will, without being limited in any way by the specific grants of power made, and without the necessity of a court order.

ITEM VII

Provision for Executor to Act as Trustee for Beneficiary Under Age Twenty-One. If any share or property hereunder becomes distributable to a beneficiary who has not attained the age of Twenty-one (21) years or if any real property shall be devised to a person who has not attained the age of Twenty-one (21) years at the date of my death, then such share or property shall immediately vest in the beneficiary, but notwithstanding the provisions herein, my Executor acting as Trustee shall retain possession of the share or property in trust for the beneficiary until the beneficiary attains the age of Twenty-one (21), using so much of the net income and principal of the share or property as my Executor deems necessary to provide for the medical care, education, support and maintenance in reasonable comfort of the beneficiary, taking into consideration to the extent my Executor deems advisable any other income or resources of the beneficiary or his or her parents known to my Executor. Any income not so paid or applied shall be accumulated and added to principal. The beneficiary's share or property shall be paid over, distributed and conveyed to the beneficiary upon attaining age Twenty-one (21), or if he or she shall sooner die, to his or her executors or administrators. Whenever my Executor determines it appropriate to pay any money for the benefit of a beneficiary for whom a trust is created

hereunder, then the amounts shall be paid out by my Executor in such of the following ways as my Executor deems best: (1) directly to the beneficiary; (2) to the legally appointed guardian of the beneficiary; (3) to some relative or friend for the care, support and education of the beneficiary; (4) by my Executor using such amounts directly for the beneficiary's care, support and education; (5) to a custodian for the beneficiary under the Uniform Gifts or Transfers to Minors Act. My Executor as trustee shall have with respect to each share or property so retained all the powers and discretions conferred upon it as Executor.

ITEM VIII

Discretion Granted to Executor in Reference to Tax Matters. My Executor as the fiduciary of my estate shall have the discretion, but shall not be required when allocating receipts of my estate between income and principal, to make adjustments in the rights of any beneficiaries, or among the principal and income accounts to compensate for the consequences of any tax decision or election, or of any investment or administrative decision, that my Executor believes has had the effect, directly or indirectly, of preferring one beneficiary or group of beneficiaries over others; provided, however, my Executor shall not exercise its discretion in a manner which would cause the loss or reduction of the marital deduction as may be herein provided. In determining the state or federal estate and income tax liabilities of my estate, my Executor shall have discretion to select the valuation date and to determine whether any or all of the allowable administration expenses in my estate shall be used as state or federal estate tax deductions or as state or federal income tax deductions and shall have the discretion to file a joint income tax return with my wife. If my estate plan includes a revocable trust agreement and it contains directions to my Executor, I direct my Executor to follow the directions in such trust agreement.

ITEM IX

Definitions of Family. The following definitions shall be used to define the family:

1. **Definition of Children.** For purposes of this Will, my "children" mean **STEPHANIE L. WARD, DAVID D. WARD and BRIAN C. WARD**, but "children" does not mean **STEPHEN A. WARD and JEREMY W. WARD**. For purposes of this Will, "children" of my wife means **ELIZABETH A. DIEMER and GARETT C. DIEMER**. "Issue" and "descendants" mean the lawful blood descendants in any degree of the ancestor designated; however, it does not include **STEPHEN A. WARD and JEREMY W. WARD** or their respective issue.

2. **Definition of Per Stirpes.** The term "per stirpes" as used herein has the identical meaning as the term "taking by representation" as defined in the South Carolina Probate Code.

ITEM X

Definition of Words Relating to the Internal Revenue Code. As used herein, the words "gross estate," "adjusted gross estate," "taxable estate," "unified credit" ("unified credit" shall also mean "applicable credit amount"), "applicable exclusion amount," "state death tax credit," "maximum marital deduction," "marital deduction," "pass," and any other word or words which from the context in which it or they are used refer to the Internal Revenue Code shall have

the same meaning as such words have for the purposes of applying the Internal Revenue Code to my estate. For purposes of this Will, my "available generation-skipping transfer exemption" means the generation-skipping transfer tax exemption provided in section 2631 of the Internal Revenue Code of 1986, as amended, in effect at the time of my death reduced by the aggregate of (1) the amount, if any, of my exemption allocated to lifetime transfers of mine by me or by operation of law, and (2) the amount, if any, I have specifically allocated to other property of my gross estate for federal estate tax purposes. For purposes of this Will if at the time of my death I have made gifts with an inclusion ratio of greater than zero for which the gift tax return due date has not expired (including extensions) and I have not yet filed a return, it shall be deemed that my generation-skipping transfer exemption has been allocated to these transfers to the extent necessary (and possible) to exempt the transfer(s) from generation-skipping transfer tax. Reference to sections of the Internal Revenue Code and to the Internal Revenue Code shall refer to the Internal Revenue Code amended to the date of my death.

ITEM XI

Statement by Testator of Intent Not to Exercise Power of Appointment. I hereby refrain from exercising any power of appointment that I may have at the time of my death.

ITEM XII

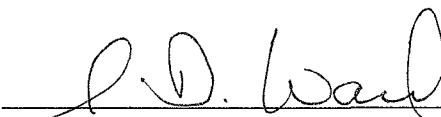
Simultaneous Death Provision Presuming Beneficiary Predeceases Testator. If any beneficiary and I should die under such circumstances as would make it doubtful whether the beneficiary or I died first, then it shall be conclusively presumed for the purposes of this Will that the beneficiary predeceased me.

ITEM XIII

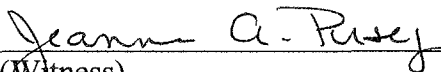
Agreement for Mutual Wills and Trusts. The Agreement for Mutual Wills and Trusts dated as of even date herewith between **STEPHEN D. WARD** and **NANCY L. WARD** is incorporated by reference into this Last Will and Testament.



Testimonium, Attestation and Self-Proving Affidavit. I, **STEPHEN D. WARD**, the Testator, sign my name to this instrument this 21st day of April, 2005, and being first duly sworn, do hereby declare to the undersigned authority that I sign and execute this instrument as my last will and that I sign it willingly (or willingly direct another to sign for me), that I execute it as my free and voluntary act for the purposes therein expressed, and that I am eighteen years of age or older, of sound mind, and under no constraint or undue influence.


STEPHEN D. WARD

We, Jeanne A. Pusey and Magdalena Cruz, the witnesses, sign our names to this instrument, being first duly sworn, and do hereby declare to the undersigned authority that the Testator signs and executes this instrument as his last will and that he signs it willingly (or willingly directs another to sign for him), and that each of us, in the presence and hearing of the Testator, and in the presence of each other, hereby signs this will as witness to the Testator's signing, and that to the best of our knowledge the Testator is eighteen years of age or older, of sound mind, and under no constraint or undue influence.

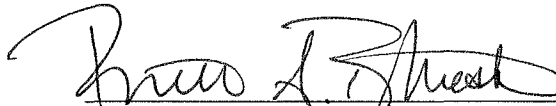

(Witness)


(Witness)

The State of South Carolina

County of Charleston

Subscribed, sworn to, and acknowledged before me by **STEPHEN D. WARD**, the Testator, and subscribed and sworn to before me by Jeanne A. Pusey and Magdalena Cruz, witnesses, this 21st day of April, 2005.

 (Seal)
Notary Public for South Carolina

My Commission Expires: July 24, 2012

2. Last Will and Testament of Nancy L. Ward

**LAST WILL AND TESTAMENT
OF
NANCY L. WARD**

Introductory Clause. I, **NANCY L. WARD**, a resident of and domiciled in the County of Charleston and State of South Carolina, do hereby make, publish and declare this to be my Last Will and Testament, hereby revoking all Wills and Codicils at any time heretofore made by me.

I am married to **STEPHEN D. WARD**.

I have two living children: **ELIZABETH A. DIEMER**; and **GARETT C. DIEMER**.

I have five living step-children: **STEPHANIE L. WARD**; **DAVID D. WARD**; **BRIAN C. WARD**; **STEPHEN A. WARD**; and **JEREMY W. WARD**. My step-children **STEPHEN A. WARD** and **JEREMY W. WARD** and their respective issue shall not receive any benefits under this Will as they will be provided for by their mother with assets she received from my husband pursuant to their divorce. Their omission is intentional.

ITEM I

Direction to Pay Debts with Discretionary Refinancing by Executor. I direct that all my legally enforceable debts, secured and unsecured, be paid as soon as practicable after my death. I direct that my Executor may cause any debt to be carried, renewed and refinanced from time to time upon such terms and with such securities for its repayment as my Executor may deem advisable taking into consideration the best interest of the beneficiaries hereunder. If at the time of my death any of the real property herein devised is subject to any mortgage, I direct that the devisee taking such mortgaged property shall take it subject to such mortgage and that the devisee shall not be entitled to have the obligation secured thereby paid out of my general estate.

ITEM II

General Bequest of Personal and Household Effects With a Mandatory Memorandum. I give and bequeath all my personal and household effects of every kind including but not limited to furniture, appliances, furnishings, pictures, silverware, china, glass, books, jewelry, wearing apparel, boats, automobiles, and other vehicles, and all policies of fire, burglary, property damage, and other insurance on or in connection with the use of this property, as follows:

1. I may leave written memoranda disposing of certain items of my tangible personal property. Any such item of tangible personal property shall pass according to the terms of such memoranda in existence at the time of my death. If no such written memoranda is found or identified by my Executor within ninety (90) days after my Executor's qualification, it shall be conclusively presumed that there is no such memoranda and any subsequently discovered

memoranda shall be ineffective. Any property given and devised to a beneficiary who is not living at the time of my death and for whom no effective alternate provision has been made shall pass according to the provisions of the following paragraph, and not pursuant to any anti-lapse statute.

2. In default of such memoranda, or to the extent such memoranda do not completely or effectively dispose of such property, I give and bequeath the rest of my personal and household effects of every kind to my husband, **STEPHEN D. WARD**, for his lifetime, if he shall survive me. If my husband shall not survive me or upon my husband's death, I give and bequeath my personal and household effects that were acquired by me (prior to my marriage to my husband or by inheritance during my marriage to my husband) to my children **ELIZABETH A. DIEMER** and **GARRET C. DIEMER** in approximately equal shares. If my husband shall not survive me or upon my husband's death, I give and bequeath my personal and household effects that were acquired by me and my husband during our marriage to **STEPHANIE L. WARD, DAVID D. WARD, BRIAN C. WARD, ELIZABETH A. DIEMER** and **GARETT C. DIEMER**, in five (5) approximately equal shares.

However, if any of the aforementioned individuals predecease the survivor of me and my husband, then the issue of the deceased individual surviving me and my husband shall take per stirpes the share their parent would have taken had he or she survived me and my husband. If any of **STEPHANIE L. WARD, DAVID D. WARD** or **BRIAN C. WARD** predecease the survivor of me and my husband and has no issue then living, the share of such predeceased individual shall be distributed per stirpes to my husband's issue. If **ELIZABETH A. DIEMER** predeceases the survivor of me and my husband and has no issue then living, the shares of **ELIZABETH A. DIEMER** shall be distributed per stirpes to the issue of **GARETT C. DIEMER**, if any, and in default of issue to **GARETT C. DIEMER**. If **GARETT C. DIEMER** predeceases the survivor of me and my husband and has no issue then living, the shares of **GARETT C. DIEMER** shall be distributed per stirpes to the issue of **ELIZABETH A. DIEMER**, if any, and in default of issue to **ELIZABETH A. DIEMER**.

If any of the aforementioned individuals do not agree to the division of the property among themselves, my Executor shall make such division among them, the decision of my Executor to be in all respects binding upon them. If any beneficiary hereunder is a minor, my Executor may distribute such minor's share to such minor or for such minor's use to any person with whom such minor is residing or who has the care or control of such minor without further responsibility and the receipt of the person to whom it is distributed shall be a complete discharge of my Executor. The cost of packing and shipping such property shall be charged against my estate as an expense of administration.

ITEM III

Pour-Over Gift to Trustee of Testatrix's Inter Vivos Trust. I give, devise and bequeath all the rest, residue and remainder of my property of every kind and description (including lapsed legacies and devises), wherever situate and whether acquired before or after the execution of this Will, to the successor Trustee under the Nancy Diemer Trust Dated April 28, 1998 between me as Settlor and me as Trustee executed prior to the execution of this Will, as amended by the First Amendment and Restatement of Trust Agreement dated as of even date

herewith. My Trustee shall add the property bequeathed and devised by this Item to the principal of the above Trust and shall hold, administer and distribute the property in accordance with the provisions of the Trust Agreement, including any amendments thereto made before my death.

ITEM IV

Naming the Executor, Executor Succession, Executor's Fees and Other Matters. The provisions for naming the Executor, Executor succession, Executor's fees and other matters are set forth below:

1. **Naming an Individual Executor.** I hereby nominate, constitute and appoint as Executor of this my Last Will and Testament **STEPHEN D. WARD** and direct that he shall serve without bond.

2. **Naming Individual Successor or Substitute Executor.** If my individual Executor should fail to qualify as Executor hereunder, or for any reason should cease to act in such capacity, the successor or substitute Executor who shall also serve without bond shall be **ROBERT A. GOELKEL**.

3. **Final Succession If Individual Successor Executor Cannot Act.** If my individual successor Executor should fail to qualify as Executor hereunder, or for any reason should cease to act in such capacity, then the successor or substitute Executors who shall also serve without bond shall be **ELIZABETH A. DIEMER** and **GARETT C. DIEMER**. If any individual Executor named herein should fail to qualify as Executor hereunder, or for any reason should cease to act in such capacity, the remaining individual Executor named herein shall continue to serve without a successor or substitute.

4 **Fee Schedule for Individual Executor.** For its services as Executor, my individual Executor shall receive no compensation but shall be entitled to reimbursement for reasonable expenses.

5 **Executor Voting Rights.** If there is more than one Executor serving, then the vote of the Executors for any action hereunder must be by majority action of the Executors. Provided, however, that if only two Executors shall be serving as co-Executors, then the Executors shall act with unanimity on all actions, unless the co-Executors shall have otherwise agreed in writing.

6 **Delegation Among Executors.** When there is more than one individual or entity serving as co-Executors, then any Executor may delegate to any other Executor the power to exercise any or all of the powers granted to the Executors in this Last Will and Testament, including those powers, which are discretionary, to the extent allowed by law. Any delegating Executor may revoke any such delegation with written notice to the other serving co-Executors. The delegation of any such power, as well as the revocation of any such delegation, shall be evidenced by an instrument in writing signed by the delegating co-Executor. As long as any such delegation is in effect, any of the delegated powers may be exercised by the Executor receiving such delegation with the same force and effect as if the delegating Executor had personally joined in the exercise of such power. Provided, however, that if such Executor, or co-

Handwritten initials: NW

Executor, shall also be a current beneficiary and such delegation shall be deemed to create in that Executor a right that shall be deemed to be a general power of appointment, then such individual Executor shall not be vested with such right to delegate such power.

ITEM V

Definition of Executor. Whenever the word "Executor" or any modifying or substituted pronoun therefor is used in this my Will, such words and respective pronouns shall include both the singular and the plural, the masculine, feminine and neuter gender thereof, and shall apply equally to the Executor named herein and to any successor or substitute Executor acting hereunder, and such successor or substitute Executor shall possess all the rights, powers and duties, authority and responsibility conferred upon the Executor originally named herein.

ITEM VI

Powers for Executor. By way of illustration and not of limitation and in addition to any inherent, implied or statutory powers granted to Executors generally, my Executor is specifically authorized and empowered with respect to any property, real or personal, at any time held under any provision of this my Will: to allot, allocate between principal and income, assign, borrow, buy, care for, collect, compromise claims, contract with respect to, continue any business of mine, convey, convert, deal with, dispose of, enter into, exchange, hold, improve, incorporate any business of mine, invest, lease, manage, mortgage, grant and exercise options with respect to, take possession of, pledge, receive, release, repair, sell, sue for, to make distributions or divisions in cash or in kind or partly in each without regard to the income tax basis of such asset, and in general, to exercise all the powers in the management of my Estate which any individual could exercise in the management of similar property owned in his or her own right, upon such terms and conditions as to my Executor may seem best, and to execute and deliver any and all instruments and to do all acts which my Executor may deem proper or necessary to carry out the purposes of this my Will, without being limited in any way by the specific grants of power made, and without the necessity of a court order.

ITEM VII

Provision for Executor to Act as Trustee for Beneficiary Under Age Twenty-One. If any share or property hereunder becomes distributable to a beneficiary who has not attained the age of Twenty-one (21) years or if any real property shall be devised to a person who has not attained the age of Twenty-one (21) years at the date of my death, then such share or property shall immediately vest in the beneficiary, but notwithstanding the provisions herein, my Executor acting as Trustee shall retain possession of the share or property in trust for the beneficiary until the beneficiary attains the age of Twenty-one (21), using so much of the net income and principal of the share or property as my Executor deems necessary to provide for the medical care, education, support and maintenance in reasonable comfort of the beneficiary, taking into consideration to the extent my Executor deems advisable any other income or resources of the beneficiary or his or her parents known to my Executor. Any income not so paid or applied shall be accumulated and added to principal. The beneficiary's share or property shall be paid over, distributed and conveyed to the beneficiary upon attaining age Twenty-one (21), or if he or she shall sooner die, to his or her executors or administrators. Whenever my Executor determines it

NW

appropriate to pay any money for the benefit of a beneficiary for whom a trust is created hereunder, then the amounts shall be paid out by my Executor in such of the following ways as my Executor deems best: (1) directly to the beneficiary; (2) to the legally appointed guardian of the beneficiary; (3) to some relative or friend for the care, support and education of the beneficiary; (4) by my Executor using such amounts directly for the beneficiary's care, support and education; (5) to a custodian for the beneficiary under the Uniform Gifts or Transfers to Minors Act. My Executor as trustee shall have with respect to each share or property so retained all the powers and discretions conferred upon it as Executor.

ITEM VIII

Discretion Granted to Executor in Reference to Tax Matters. My Executor as the fiduciary of my estate shall have the discretion, but shall not be required when allocating receipts of my estate between income and principal, to make adjustments in the rights of any beneficiaries, or among the principal and income accounts to compensate for the consequences of any tax decision or election, or of any investment or administrative decision, that my Executor believes has had the effect, directly or indirectly, of preferring one beneficiary or group of beneficiaries over others; provided, however, my Executor shall not exercise its discretion in a manner which would cause the loss or reduction of the marital deduction as may be herein provided. In determining the state or federal estate and income tax liabilities of my estate, my Executor shall have discretion to select the valuation date and to determine whether any or all of the allowable administration expenses in my estate shall be used as state or federal estate tax deductions or as state or federal income tax deductions and shall have the discretion to file a joint income tax return with my husband. If my estate plan includes a revocable trust agreement and it contains directions to my Executor, I direct my Executor to follow the directions in such trust agreement.

ITEM IX

Definitions of Family. The following definitions shall be used to define the family:

1. **Definition of Children.** For purposes of this Will, my "children" mean **ELIZABETH A. DIEMER** and **GARETT C. DIEMER**. For purposes of this Will, "children" of my husband means **STEPHANIE L. WARD**, **DAVID D. WARD** and **BRIAN C. WARD**, but "children" does not mean **STEPHEN A. WARD** and **JEREMY W. WARD**. "Issue" and "descendants" mean the lawful blood descendants in any degree of the ancestor designated; however, it does not include **STEPHEN A. WARD** and **JEREMY W. WARD** or their respective issue.

2. **Definition of Per Stirpes.** The term "per stirpes" as used herein has the identical meaning as the term "taking by representation" as defined in the South Carolina Probate Code.

ITEM X

Definition of Words Relating to the Internal Revenue Code. As used herein, the words "gross estate," "adjusted gross estate," "taxable estate," "unified credit" ("unified credit" shall also mean "applicable credit amount"), "applicable exclusion amount," "state death tax credit," "maximum marital deduction," "marital deduction," "pass," and any other word or words

which from the context in which it or they are used refer to the Internal Revenue Code shall have the same meaning as such words have for the purposes of applying the Internal Revenue Code to my estate. For purposes of this Will, my "available generation-skipping transfer exemption" means the generation-skipping transfer tax exemption provided in section 2631 of the Internal Revenue Code of 1986, as amended, in effect at the time of my death reduced by the aggregate of (1) the amount, if any, of my exemption allocated to lifetime transfers of mine by me or by operation of law, and (2) the amount, if any, I have specifically allocated to other property of my gross estate for federal estate tax purposes. For purposes of this Will if at the time of my death I have made gifts with an inclusion ratio of greater than zero for which the gift tax return due date has not expired (including extensions) and I have not yet filed a return, it shall be deemed that my generation-skipping transfer exemption has been allocated to these transfers to the extent necessary (and possible) to exempt the transfer(s) from generation-skipping transfer tax. Reference to sections of the Internal Revenue Code and to the Internal Revenue Code shall refer to the Internal Revenue Code amended to the date of my death.

ITEM XI

Statement by Testatrix of Intent Not to Exercise Power of Appointment. I hereby refrain from exercising any power of appointment that I may have at the time of my death.

ITEM XII

Simultaneous Death Provision Presuming Beneficiary Predeceases Testatrix. If any beneficiary and I should die under such circumstances as would make it doubtful whether the beneficiary or I died first, then it shall be conclusively presumed for the purposes of this Will that the beneficiary predeceased me.

ITEM XIII

Agreement For Mutual Wills and Trusts. The Agreement for Mutual Wills and Trusts dated as of even date herewith between **STEPHEN D. WARD** and **NANCY L. WARD** is incorporated by reference into this Last Will and Testament.

Testimonium, Attestation and Self-Proving Affidavit. I, **NANCY L. WARD**, the Testatrix, sign my name to this instrument this 21st day of April, 2005, and being first duly sworn, do hereby declare to the undersigned authority that I sign and execute this instrument as my last will and that I sign it willingly (or willingly direct another to sign for me), that I execute it as my free and voluntary act for the purposes therein expressed, and that I am eighteen years of age or older, of sound mind, and under no constraint or undue influence.

Nancy L. Ward
NANCY L. WARD

We, Jeanne A. Pusey and Magdalena Cruz, the witnesses, sign our names to this instrument, being first duly sworn, and do hereby declare to the undersigned authority that the Testatrix signs and executes this instrument as her last will and that she signs it willingly (or willingly directs another to sign for her), and that each of us, in the presence and hearing of the Testatrix, and in the presence of each other, hereby signs this will as witness to the Testatrix's signing, and that to the best of our knowledge the Testatrix is eighteen years of age or older, of sound mind, and under no constraint or undue influence.

Jeanne A. Pusey
(Witness)
Magdalena Cruz
(Witness)

The State of South Carolina

County of Charleston

Subscribed, sworn to, and acknowledged before me by **NANCY L. WARD**, the Testatrix, and subscribed and sworn to before me by Jeanne A. Pusey and Magdalena Cruz, witnesses, this 21st day of April, 2005.

James A. Rhoads (Seal)
Notary Public for South Carolina

My Commission Expires: July 24, 2012

3. Trust Agreement of Stephen D. Ward

**TRUST AGREEMENT
OF
STEPHEN D. WARD**

Introductory Clause. This Trust Agreement of **STEPHEN D. WARD** made this 21st day of April, 2005, between **STEPHEN D. WARD**, hereinafter referred to as the Settlor and **STEPHEN D. WARD**, hereinafter referred to as the Trustee.

The Settlor is married to **NANCY L. WARD** and has five living children: **STEPHANIE L. WARD, DAVID D. WARD, BRIAN C. WARD, STEPHEN A. WARD** and **JEREMY W. WARD**. The Settlor's children **STEPHEN A. WARD** and **JEREMY W. WARD** and their respective issue shall not receive any benefits under this Trust Agreement as they will be provided for by their mother with assets she received from the Settlor pursuant to their divorce. Their omission is intentional.

The Settlor has two living step-children: **ELIZABETH A. DIEMER** and **GARETT C. DIEMER**.

ARTICLE I

Trustee Succession if Settlor Dies or Becomes Incapacitated. If the Settlor dies or is adjudicated to be incompetent or in the event that the Settlor is not adjudicated incompetent, but by reason of illness or mental or physical disability is, in the opinion of two licensed physicians, unable to properly handle the Settlor's own affairs, then and in that event the Trustee named below shall immediately become the Trustee under this Trust Agreement. The Settlor names the following as successor Trustee:

NANCY L. WARD

Third parties may rely on an affidavit by the Trustee named above stating that the successor Trustee is now acting as Trustee hereunder.

ARTICLE II

Description of Property Transferred. The Settlor has paid over, assigned, granted, conveyed, transferred and delivered, and by this Agreement does hereby pay over, assign, grant, convey, transfer and deliver unto the Trustee certain property, and has caused or will cause the Trustee to be designated as beneficiary of certain life insurance policies. These insurance policies, and any other insurance policies that may be delivered to the Trustee hereunder or under which the Trustee may be designated as beneficiary, the proceeds of all such policies being payable to the Trustee, and any other property that may be received or which has been received by the Trustee hereunder, as invested and reinvested (hereinafter referred to as the "Trust Estate"), shall be held, administered and distributed by the Trustee as hereinafter set forth.

ARTICLE III

Rights of Settlor and Trustee in Insurance Policies. During the Settlor's lifetime, the Settlor shall have all rights under any life insurance policies payable to the Trustee, including the right to change the beneficiary, to receive any dividends or other earnings of such policies without accountability therefor to the Trustee or any beneficiary hereunder, and may assign any policies to any lender, including the Trustee, as security for any loan to the Settlor or any other person; and the Trustee shall have no responsibility with respect to any policies, for the payment of premiums or otherwise, except to hold any policies received by the Trustee in safekeeping and to deliver them upon the Settlor's written request and upon the payment to the Trustee of reasonable compensation for services. The rights of any assignee of any policy shall be superior to the rights of the Trustee. If any policy is surrendered or if the beneficiary of any policy is changed, this trust shall be revoked with respect to such policy. However, no revocation of the trust with respect to any policy, whether pursuant to the provisions of the preceding sentence or otherwise, shall be effective unless the surrender or change in beneficiary of the policy is accepted by the insurance company. Upon the death of the insured under any policy held by or known to, and payable to, the Trustee, or upon the occurrence of some event prior to the death of the Settlor that matures any such policy, the Trustee, in its discretion, either may collect the net proceeds and hold them as part of the principal of the Trust Estate, or may exercise any optional method of settlement available to it, and the Trustee shall deliver any policies on the Settlor's life held by it and payable to any other beneficiaries as those beneficiaries may direct. Payment to, and the receipt of, the Trustee shall be a full discharge of the liability of any insurance company, which need not take notice of this agreement or see to the application of any payment. The Trustee need not engage in litigation to enforce payment of any policy without indemnification satisfactory to it for any resulting expenses.

ARTICLE IV

Provisions for Settlor During Lifetime. The Trustee shall hold, manage, invest and reinvest the Trust Estate (if any requires such management and investment) and shall collect the income, if any, therefrom and shall dispose of the net income and principal as follows:

1. During the lifetime of the Settlor, the Trustee shall pay to or apply for the benefit of the Settlor all the net income from this Trust.
2. During the lifetime of the Settlor, the Trustee may pay to or apply for the benefit of the Settlor such sums from the principal of this Trust as in its sole discretion shall be necessary or advisable from time to time for the medical care, education, support and maintenance in reasonable comfort of the Settlor, taking into consideration to the extent the Trustee deems advisable, any other income or resources of the Settlor known to the Trustee.
3. During the Settlor's lifetime and in the event that the Settlor is adjudicated to be incompetent or in the event that the Settlor is not adjudicated incompetent, but by reason of illness or mental or physical disability is, in the opinion of the Trustee, unable to properly handle the Settlor's own affairs, then and in that event the Trustee shall have the authorization to engage in additional estate planning to reduce the expected gift and estate tax liability as well as provide for additional resources for family transfers and, if consistent with the Settlor's desires,

charitable purposes. The estate planning, which is specifically authorized, may include the design, implementation, and funding of techniques such as limited partnerships, limited liability companies, lifetime gifts and transfers, qualified personal residence trusts, charitable trusts, family foundations, and other trusts and techniques designed to reduce the total estate and gift taxes anticipated to be paid by the Settlor and the Settlor's estate to increase the expected benefit to the Settlor's family, beneficiaries, and charities, if any.

4. During the Settlor's lifetime and in the event that the Settlor is adjudicated to be incompetent or in the event that the Settlor is not adjudicated incompetent, but by reason of illness or mental or physical disability is, in the opinion of the Trustee, unable to properly handle the Settlor's own affairs, then and in that event the Trustee shall have the authorization to (but shall not be required to) make gifts equal to or in excess of the annual gift tax exclusion to the Settlor's children and their issue, and their respective spouses, if appropriate, and in such amounts and upon such terms and conditions as the Trustee, in the Trustee's discretion, shall determine.

ARTICLE V

Settlor's Rights to Amend, Change or Revoke the Trust Agreement. Except as provided for in the **AGREEMENT FOR MUTUAL WILLS AND TRUSTS**, dated as of even date herewith and entered into between the Settlor and the Settlor's wife, **NANCY L. WARD**, the Settlor may, by signed instruments delivered to the Trustee during the Settlor's life: (1) withdraw property from this Trust in any amount and at any time upon giving reasonable notice in writing to the Trustee; (2) add other property to the Trust; (3) change the beneficiaries; their respective shares and the plan of distribution; (4) amend this Trust Agreement in any other respect; (5) revoke this Trust in its entirety or any provision therein; provided, however, the duties or responsibilities of the Trustee shall not be enlarged without the Trustee's consent nor without satisfactory adjustment of the Trustee's compensation.

ARTICLE VI

Discretionary Provisions for Trustee to Deal with Settlor's Estate and Make Payment of Debts and Taxes. After the Settlor's death, the Trustee, if in its discretion it deems it advisable, may pay all or any part of the Settlor's funeral expenses, legally enforceable claims against the Settlor or the Settlor's estate, reasonable expenses of administration of the Settlor's estate, any allowances by court order to those dependent upon the Settlor, any estate, inheritance, succession, death or similar taxes payable by reason of the Settlor's death, together with any interest thereon or other additions thereto, without reimbursement from the Settlor's executors or administrators, from any beneficiary of insurance upon the Settlor's life, or from any other person. All such payments, except of interest, shall be charged generally against the principal of the Trust Estate includable in the Settlor's estate for Federal estate tax purposes and any interest so paid shall be charged generally against the income thereof; provided, however, any such payments of estate, inheritance, succession, death or similar taxes (except generation-skipping transfer taxes) shall be charged against the principal constituting the Ward Family Trust and any interest so paid shall be charged against the income thereof. If such share or trust was created as a fraction, then such taxes thus paid shall reduce the numerator of that share or trust and the Trust Estate, thus likewise reducing the denominator of the fraction. The Trustee may make

such payments directly or may pay over the amounts thereof to the executors or administrators of the Settlor's estate. Written statements by the executors or administrators of such sums due and payable by the estate shall be sufficient evidence of their amount and propriety for the protection of the Trustee and the Trustee shall be under no duty to see to the application of any such payments. If administrative expenses are deducted on the estate's income tax return but paid from principal, then they shall be charged against the Ward Family Trust. The Trustee shall have the power to charge expenses of administration against income or principal, or apportion such expenses; provided, however, this power may not be exercised in a way which would reduce or otherwise adversely affect the marital or charitable deduction otherwise available for federal estate tax purposes. The Trustee shall not exercise this discretion in a manner which is inconsistent with the IRC regulations now in effect or subsequently promulgated.

ARTICLE VII

Specific Distributions. Upon the death of the Settlor, the Trustee shall make the following distributions:

(1) **Specific Distribution.** The Charles Schwab & Co., Inc. Account Number 8041-2928 shall be distributed outright and free of trust to the Settlor's children **STEPHANIE L. WARD, DAVID D. WARD** and **BRIAN C. WARD**, who survive the Settlor, in approximately equal shares; provided, however, the surviving issue of a deceased child shall take per stirpes the share their parent would have taken had he or she survived the Settlor.

(2) **Definition of Trust Estate.** As used in this Trust Agreement, the words "Trust Estate" shall mean the entire Trust Estate minus the specific distributions under this Article.

ARTICLE VIII

Upon the death of the Settlor, the Trustee shall divide the Trust Estate (which shall include any property which may be added from the Settlor's general estate) as follows:

1. **Creation of The Marital Trust and The Ward Family Trust.** If the Settlor is survived by the Settlor's wife, **NANCY L. WARD**, the Trustee shall divide the Trust Estate into Two (2) separate shares, hereinafter designated as "**the Marital Trust**" and "**the Ward Family Trust**." **The Marital Trust** shall be composed of cash, securities or other property of the Trust Estate (undiminished by any estate, inheritance, succession, death or similar taxes) having a value equal to the maximum marital deduction as finally determined in the Settlor's federal estate tax proceedings, less the aggregate amount of marital deductions, if any, allowed for such estate tax purposes by reason of property or interests in property passing or which have passed to the Settlor's wife otherwise than pursuant to the provisions of this Article; provided, however, the amount for **the Marital Trust** hereunder shall be reduced by the amount, if any, needed to increase the Settlor's taxable estate (for federal estate tax purposes) to the largest amount that, after allowing for the unified credit against the federal estate tax, and the state death tax credit against such tax (but only to the extent that the use of such state death tax credit does not increase the death tax payable to any state), will result in the smallest (if any) federal estate tax being imposed on the Settlor's estate. The term "maximum marital deduction" shall not be construed as a direction by the Settlor to exercise any election respecting the deduction of estate

administration expenses, the determination of the estate tax valuation date, or any other tax election which may be available under any tax laws, only in such manner as will result in a larger allowable estate tax marital deduction than if the contrary election had been made. The Trustee shall have the sole discretion to select the assets which shall constitute **the Marital Trust**. In no event, however, shall there be included in this **the Marital Trust** any asset or the proceeds of any asset which will not qualify for the federal estate tax marital deduction, and this **the Marital Trust** shall be reduced to the extent that it cannot be created with such qualifying assets. The Trustee shall value any asset selected by the Trustee for distribution in kind as a part of **the Marital Trust** hereunder at the value of such asset at the date of distribution of such asset. **The Marital Trust** shall be administered as hereinafter set forth. **The Ward Family Trust** shall be the balance of the Trust Estate after the assets have been selected for **the Marital Trust**.

2. **Creation of The Ward Family Trust.** If the Settlor's wife shall not survive the Settlor, **the Ward Family Trust** shall be the entire Trust Estate.

The Marital Trust and the Ward Family Trust shall be administered as hereinafter set forth.

ARTICLE IX

The Ward Family Trust Introductory Provision. **The Ward Family Trust** shall be held, administered and distributed as follows:

1. **Payment to Wife of All Income.** If the Settlor's wife shall survive the Settlor, then commencing with the date of the Settlor's death, the Trustee shall pay to or apply for the benefit of the Settlor's wife during her lifetime all the net income from **the Ward Family Trust** in convenient installments but no less frequently than quarter-annually.

2, **Discretionary Payments of Principal for Wife.** If the Settlor's wife shall survive the Settlor, and if there is no principal remaining in the Marital Trust, the Trustee may pay to or apply for the benefit of the Settlor's wife during her lifetime, such sums from the principal of **the Ward Family Trust** as in its sole discretion shall be necessary or advisable from time to time for the medical care, education, support and maintenance in reasonable comfort of the Settlor's wife, taking into consideration to the extent the Trustee deems advisable, any other income or resources of the Settlor's wife known to the Trustee.

3. **Outright Final Distribution if Wife is Deceased.** Upon or after the death of the survivor of the Settlor's wife and the Settlor, **the Ward Family Trust** shall be distributed outright and free of trust to **STEPHANIE L. WARD, DAVID D. WARD, BRIAN C. WARD, ELIZABETH A. DIEMER** and **GARETT C. DIEMER**, in five (5) approximately equal shares; provided, however, if one of these individuals are deceased then the issue of the deceased individual surviving the Settlor and the Settlor's wife shall take per stirpes the share their parent would have taken had he or she survived the Settlor and the Settlor's wife. If any of **STEPHANIE L. WARD, DAVID D. WARD** or **BRIAN C. WARD** predecease the survivor of the Settlor and the Settlor's wife and has no issue then living, the share of such predeceased individual shall be distributed per stirpes to the Settlor's issue. If **ELIZABETH A. DIEMER** predeceases the survivor of the Settlor and the Settlor's wife and has no issue then living, the share of **ELIZABETH A. DIEMER** shall be distributed per stirpes to the issue of **GARETT C.**

DIEMER, if any, and in default of issue to **GARETT C. DIEMER**. If **GARETT C. DIEMER** predeceases the survivor of the Settlor and the Settlor's wife and has no issue then living, the share of **GARETT C. DIEMER** shall be distributed per stirpes to the issue of **ELIZABETH A. DIEMER**, if any, and in default of issue to **ELIZABETH A. DIEMER**.

ARTICLE X

The Marital Trust Introductory Provision. The Marital Trust shall be held, administered and distributed as follows:

1. **Direction to Pay All Income to Wife.** Commencing with the date of the Settlor's death, the Trustee shall pay to or apply for the benefit of the Settlor's wife during her lifetime all the net income from **the Marital Trust** in convenient installments but no less frequently than quarter-annually. Any accrued and undistributed income at the death of the Settlor's wife shall be paid with the entire remaining principal as provided in this **the Marital Trust**.

2. **Discretionary Payments of Principal by Trustee for Benefit of Wife.** In addition, the Trustee may pay to or apply for the benefit of the Settlor's wife such sums from the principal of **the Marital Trust** as in its sole discretion shall be necessary or advisable from time to time for the medical care, education, support and maintenance in reasonable comfort of the Settlor's wife, taking into consideration to the extent the Trustee deems advisable, any other income or resources of the Settlor's wife known to the Trustee.

3. **Power in Wife to Cause Nonproductive Property to Be Made Productive.** The Settlor's wife may at any time by written notice, require the Trustee either to make any nonproductive property of this trust productive or to convert such nonproductive property to productive property within a reasonable time.

4. **Payment of Death Taxes From The Marital Trust on Death of Wife.** Unless the Settlor's wife's Will specifically provides that the estate, succession, death or similar taxes assessed with respect to the assets of **the Marital Trust** be paid otherwise, the Trustee shall pay to the executors or administrators of the estate of the wife for the purposes of paying such taxes, the amount by which such taxes assessed by reason of the Settlor's wife's death shall be increased as a result of the inclusion of the assets of **the Marital Trust** in her estate for such tax purposes.

5. **Trust Property to Be Added to The Ward Family Trust on Wife's Death.** Upon the death of the Settlor's wife, the entire remaining principal of **the Marital Trust** shall be added to and become a part of **the Ward Family Trust** and shall be held and administered or distributed in whole or in part, as if it had been an original part of **the Ward Family Trust**.

ARTICLE XI

Trustee Succession, Trustee's Fees and Other Matters. The provisions for naming the Trustee, Trustee succession, Trustee's fees and other matters are set forth below:

1. **Individual Trustees Succession.** If **NANCY L. WARD** should fail to qualify as successor Trustee hereunder, or for any reason should cease to act in such capacity, the successor or substitute Trustee who shall also serve without bond shall be the Settlor's brother **DUDLEY M. WARD**.

2. **Final Succession If Individual Successor Trustee Cannot Act.** If **NANCY L. WARD** and **DUDLEY M. WARD** should fail to qualify as individual successor Trustee hereunder, or for any reason should cease to act in such capacity, then the successor or substitute Trustee who shall also serve without bond shall be **STEPHANIE L. WARD, DAVID D. WARD** and **BRIAN C. WARD**. If any individual Trustee named herein should fail to qualify as Trustee hereunder, or for any reason should cease to act in such capacity, the remaining Trustees named herein shall continue to serve without a successor or substitute.

3. **Fee Schedule for Individual Trustee.** For its services as Trustee, the individual Trustee shall receive no compensation but shall be entitled to reimbursement for reasonable expenses.

4. **Trustee Voting Rights.** If there is more than one Trustee serving, then the vote of the Trustees for any action hereunder must be by majority action of the Trustees. Provided, however, that if only two Trustees shall be serving as co-Trustees, then the Trustees shall act with unanimity on all actions, unless the co-Trustees shall have otherwise agreed in writing.

5. **Delegation Among Trustees.** When there is more than one individual or entity serving as co-Trustees, then any Trustee may delegate to any other Trustee the power to exercise any or all of the powers granted to the Trustees in this Trust Agreement, including those powers, which are discretionary, to the extent allowed by law. Any delegating Trustee may revoke any such delegation with written notice to the other serving co-Trustees. The delegation of any such power, as well as the revocation of any such delegation, shall be evidenced by an instrument in writing signed by the delegating co-Trustee. As long as any such delegation is in effect, any of the delegated powers may be exercised by the Trustee receiving such delegation with the same force and effect as if the delegating Trustee had personally joined in the exercise of such power. Provided, however, that if such Trustee, or co-Trustee, shall also be a current beneficiary and such delegation shall be deemed to create in that Trustee a right that shall be deemed to be a general power of appointment, then such individual Trustee shall not be vested with such right to delegate such power.

6. **Limitations on Trustees.** No person who at any time is acting as Trustee hereunder shall have any power or obligation to participate in any discretionary authority which the Settlor has given to the Trustee to pay principal or income to such person, or for his or her benefit or in relief of his or her legal obligations.

ARTICLE XII

Definition of Trustee. Whenever the word "Trustee" or any modifying or substituted pronoun therefor is used in this Trust, such words and respective pronouns shall include both the singular and the plural, the masculine, feminine and neuter gender thereof, and shall apply equally to the Trustee named herein and to any successor or substitute Trustee acting hereunder,

and such successor or substitute Trustee shall have all the rights, powers and duties, authority and responsibility conferred upon the Trustee originally named herein.

ARTICLE XIII

Powers for Trustee. The Trustee is authorized in its fiduciary discretion (which shall be subject to the standard of reasonableness and good faith to all beneficiaries) with respect to any property, real or personal, at any time held under any provision of this Trust Agreement and without authorization by any court and in addition to any other rights, powers, authority and privileges granted by any other provision of this Trust Agreement or by statute or general rules of law:

1. To retain in the form received any property or undivided interests in property donated to, or otherwise acquired as a part of the Trust Estate, including residential property and shares of the Trustee's own stock, regardless of any lack of diversification, risk or nonproductivity, as long as it deems advisable, and to exchange any such security or property for other securities or properties and to retain such items received in exchange, although such property represents a large percentage of the total property of the Trust Estate or even the entirety thereof.
2. To invest and reinvest all or any part of the Trust Estate in any property and undivided interests in property, wherever located, including bonds, debentures, notes, secured or unsecured, stocks of corporations regardless of class, interests in limited partnerships, limited liability companies or similar entities, real estate or any interest in real estate whether or not productive at the time of investment, interests in trusts, investment trusts, whether of the open and/or closed fund types, and participation in common, collective or pooled trust funds of the Trustee, insurance contracts on the life of any beneficiary or annuity contracts for any beneficiary, without being limited by any statute or rule of law concerning investments by fiduciaries.
3. To sell or dispose of or grant options to purchase any property, real or personal, constituting a part of the Trust Estate, for cash or upon credit, to exchange any property of the Trust Estate for other property, at such times and upon such terms and conditions as it may deem best, and no person dealing with it shall be bound to see to the application of any monies paid.
4. To hold any securities or other property in its own name as Trustee, in its own name, in the name of a nominee (with or without disclosure of any fiduciary relationship) or in bearer form.
5. To keep, at any time and from time to time, all or any portion of the Trust Estate in cash and uninvested for such period or periods of time as it may deem advisable, without liability for any loss in income by reason thereof.
6. To sell or exercise stock subscription or conversion rights.
7. To refrain from voting or to vote shares of stock which are a part of the Trust Estate at shareholders' meetings in person or by special, limited, or general proxy and in general

to exercise all the rights, powers and privileges of an owner in respect to any securities constituting a part of the Trust Estate.

8. To participate in any plan of reorganization or consolidation or merger involving any company or companies whose stock or other securities shall be part of the Trust Estate, and to deposit such stock or other securities under any plan of reorganization or with any protective committee and to delegate to such committee discretionary power with relation thereto, to pay a proportionate part of the expenses of such committee and any assessments levied under any such plan, to accept and retain new securities received by the Trustee pursuant to any such plan, to exercise all conversion, subscription, voting and other rights, of whatsoever nature pertaining to such property, and to pay any amount or amounts of money as it may deem advisable in connection therewith.

9. To borrow money and to encumber, mortgage or pledge any asset of the Trust Estate for a term within or extending beyond the term of the trust, in connection with the exercise of any power vested in the Trustee.

10. To enter for any purpose into a lease as lessor or lessee with or without option to purchase or renew for a term within or extending beyond the term of the trust.

11. To subdivide, develop, or dedicate real property to public use or to make or obtain the vacation of plats and adjust boundaries, to adjust differences in valuation on exchange or partition by giving or receiving consideration, and to dedicate easements to public use without consideration.

12. To make ordinary or extraordinary repairs or alterations in buildings or other structures, to demolish any improvements, to raze existing or erect new party walls or buildings.

13. To continue and operate any business owned by the Settlor at the Settlor's death and to do any and all things deemed needful or appropriate by the Trustee, including the power to incorporate the business and to put additional capital into the business, for such time as it shall deem advisable, without liability for loss resulting from the continuance or operation of the business except for its own negligence; and to close out, liquidate or sell the business at such time and upon such terms as it shall deem best.

14. To collect, receive, and receipt for rents, issues, profits, and income of the Trust Estate.

15. To insure the assets of the Trust Estate against damage or loss and the Trustee against liability with respect to third persons.

16. In buying and selling assets, in lending and borrowing money, and in all other transactions, irrespective of the occupancy by the same person of dual positions, to deal with itself in its separate, or any fiduciary capacity.



17. To compromise, adjust, arbitrate, sue on or defend, abandon, or otherwise deal with and settle claims in favor of or against the Trust Estate as the Trustee shall deem best.

18. To employ and compensate agents, accountants, investment advisers, brokers, attorneys-in-fact, attorneys-at-law, tax specialists, realtors, and other assistants and advisors deemed by the Trustee needful for the proper administration of the Trust Estate, and to do so without liability for any neglect, omission, misconduct, or default of any such agent or professional representative provided such person was selected and retained with reasonable care.

19. To determine what shall be fairly and equitably charged or credited to income and what to principal.

20. To hold and retain the principal of the Trust Estate undivided until actual division shall become necessary in order to make distributions; to hold, manage, invest, and account for the several shares or parts thereof by appropriate entries on the Trustee's books of account; and to allocate to each share or part of share its proportionate part of all receipts and expenses; provided, however, the carrying of several trusts as one shall not defer the vesting in title or in possession of any share or part of share thereof.

21. To make payment in cash or in kind, or partly in cash and partly in kind upon any division or distribution of the Trust Estate (including the satisfaction of any pecuniary distribution) without regard to the income tax basis of any specific property allocated to any beneficiary and to value and appraise any asset and to distribute such asset in kind at its appraised value; and when dividing fractional interests in property among several beneficiaries to allocate entire interests in some property to one beneficiary and entire interests in other property to another beneficiary or beneficiaries.

22. In general, to exercise all powers in the management of the Trust Estate which any individual could exercise in his or her own right, upon such terms and conditions as it may reasonably deem best, and to do all acts which it may deem reasonably necessary or proper to carry out the purposes of this Trust Agreement.

23. To purchase property, real or personal, from the Settlor's general estate upon such terms and conditions as to price and terms of payment as the Settlor's executors or administrators and the Trustee shall agree, to hold the property so purchased as a part of the Trust Estate although it may not qualify as an authorized trust investment except for this provision, and to dispose of such property as and when the Trustee shall deem advisable. The fact that the Settlor's executors or administrators and the Trustee are the same shall in no way affect the validity of this provision.

24. To lend funds to the Settlor's general estate upon such terms and conditions as to interest rates, maturities, and security as the Settlor's executors or administrators and the Trustee shall agree, the fact that they may be the same in no way affecting the validity of this provision.

25. To receive property bequeathed, devised or donated to the Trustee by the Settlor or any other person; to receive the proceeds of any insurance policy which names the Trustee as

beneficiary; to execute all necessary receipts and releases to Executors, donors, insurance companies and other parties adding property to the Trust Estate.

26. To combine assets of two or more trusts if the provisions and terms of each trust are substantially identical, and to administer them as a single trust, if the Trustee reasonably determines that the administration as a single trust is consistent with the Settlor's intent, and facilitates the trust's administration without defeating or impairing the interests of the beneficiaries.

27. To divide any trust into separate shares or separate trusts or to create separate trusts if the Trustee reasonably deems it appropriate and the division or creation is consistent with the Settlor's intent, and facilitates the trust's administration without defeating or impairing the interests of the beneficiaries.

28. To divide property in any trust being held hereunder with an inclusion ratio, as defined in section 2642(a)(1) of the Internal Revenue Code of 1986, as from time to time amended or under similar future legislation, of neither one nor zero into two separate trusts representing two fractional shares of the property being divided, one to have an inclusion ratio of one and the other to have an inclusion ratio of zero, to create trusts to receive property with an inclusion ratio of either one or zero and if this cannot be done to refuse to accept property which does not have a matching inclusion ratio to the receiving trust's ratio, all as the Trustee in its sole discretion deems best.

29. If the Trustee shall act as the Executor of the Settlor's estate, to elect to allocate any portion or all the Settlor's generation-skipping transfer exemption provided for in Code section 2631 or under similar future legislation, in effect at the time of the Settlor's death, to any portion or all of any other trusts or bequests in the Settlor's Will or any other transfer which the Settlor is the transferor for purposes of the generation-skipping tax. Generally, the Settlor anticipates that the Settlor's Executor will elect to allocate this exemption first to direct skips as defined in Code section 2612, then to the Ward Family Trust, unless it would be inadvisable based on all the circumstances at the time of making the allocation; and to make the special election under section 2652(a)(3) of the Code to the extent the Settlor's Executor deems in the best interest of the Settlor's estate.

ARTICLE XIV

Trustee's Discretion to Allow Beneficiary or Beneficiaries to Occupy Residential Real Estate. The Trustee may in its discretion permit any beneficiary or beneficiaries to occupy rent free any residence constituting a part of the trust assets for such beneficiary or beneficiaries and to pay the real estate taxes thereon, expenses of maintaining the residence in suitable repair and condition and hazard insurance premiums on the residence. Provided, however, the Trustee shall not exercise this power in any way which would deprive the wife under the Marital Trust of the beneficial enjoyment of the Marital Trust and the wife shall have the right to limit, restrict or terminate the Trustee's exercises of this power if they interfere with such beneficial enjoyment.

ARTICLE XV

Marital Deduction Savings Clause for the Marital Trust. It is expressly provided that the grant of rights, powers, privileges and authority to the Trustee in connection with the imposition of duties upon the Trustee by any provision of this Trust Agreement or by any statute relating thereto shall not be effective if and to the extent that the same, if effective, would disqualify the marital deduction as established in **the Marital Trust** hereof. It is the Settlor's intention that the Settlor's wife under the provisions of **the Marital Trust** have substantially that degree of beneficial enjoyment of the Trust Estate during her lifetime which the principles of the law of trusts accord to a person who is unqualifiedly designated as the life beneficiary of a trust and the Trustee shall not exercise its discretion in a manner which is not in accord with this expressed intention. The Trustee shall invest the Trust Estate so it will produce for the Settlor's wife during her lifetime an income or use which is consistent with the value of the Trust Estate and with its preservation. It is expressly provided that the Trustee shall not in the exercise of its discretion make any determination inconsistent with the foregoing.

ARTICLE XVI

Provision for Trustee to Act as Trustee for Beneficiary Under Age Twenty-One. If any share hereunder becomes distributable to a beneficiary who has not attained the age of Twenty-one (21), such share shall immediately vest in the beneficiary, but notwithstanding the provisions herein, the Trustee shall retain possession of the share in trust for the beneficiary until the beneficiary attains the age of Twenty-one (21), using so much of the net income and principal of the share as the Trustee deems necessary to provide for the medical care, education, support and maintenance in reasonable comfort of the beneficiary, taking into consideration to the extent the Trustee deems advisable any other income or resources of the beneficiary or his or her parents known to the Trustee. Any income not so paid or applied shall be accumulated and added to principal. The beneficiary's share shall be paid over and distributed to the beneficiary upon attaining age Twenty-one (21), or if he or she shall sooner die, to his or her executors or administrators. The Trustee shall have with respect to each share so retained all the powers and discretions it had with respect to the trusts created herein generally.

ARTICLE XVII

Trustee's Discretion in Making Payments to a Person Under Age Twenty-One, Incompetent, or Incapacitated Person. In case the income or principal payment under any trust created hereunder or any share thereof shall become payable to a person under the age of Twenty-one (21), or to a person under legal disability, or to a person not adjudicated incompetent, but who, by reason of illness or mental or physical disability, is, in the opinion of the Trustee unable properly to administer such amounts, then such amounts shall be paid out by the Trustee in such of the following ways as the Trustee deems best: (1) directly to the beneficiary; (2) to the legally appointed guardian of the beneficiary; (3) to some relative or friend for the medical care, education, support and maintenance in reasonable comfort of the beneficiary; (4) by the Trustee using such amounts directly for the beneficiary's care, support and education; (5) to a custodian for the beneficiary under the Uniform Gifts or Transfers to Minors Act. Provided, however, that the Trustee shall not make any payment from the Marital Trust under (3) above.

ARTICLE XVIII

Power of Trustee to Resign During Settlor's Lifetime. Any Trustee may resign this trusteeship during the Settlor's lifetime by giving the Settlor Thirty (30) days notice in writing delivered to the Settlor in person or mailed to the Settlor's last known address, the resignation to become effective as hereinafter provided. Upon receipt of such notice, the Settlor shall appoint a successor Trustee. Upon the failure of the Settlor to appoint a successor Trustee who accepts the trust within Thirty (30) days from the time notice was delivered in person or mailed to the Settlor, the Trustee may resign to the court having jurisdiction over this trust, which court may, if it deems advisable, accept the resignation and appoint a successor Trustee which shall be an individual as successor to an individual trustee or a bank or trust company qualified to do business in the state of the Settlor's domicile as successor to a corporate trustee. Upon the appointment of and acceptance by the successor Trustee, the original Trustee shall pay over, deliver, assign, transfer or convey to such successor Trustee the Trust Estate and make a full and proper accounting to the Settlor, whereupon its resignation shall become effective. The substitute or successor Trustee upon acceptance of this trust and the Trust Estate shall succeed to and have all the rights, powers and duties, authority and responsibility conferred upon the Trustee originally named herein.

ARTICLE XIX

Settlor During Lifetime to Designate Substitute or Successor Trustee. The Settlor during the Settlor's lifetime may name a substitute or successor Trustee by delivery to any Trustee herein a notice naming the successor or substitute Trustee and indicating an intent to replace the Trustee named. Upon receipt of such notice the Trustee named shall pay over, deliver, assign, transfer or convey to such substitute or successor Trustee (which accepts the appointment as trustee), the Trust Estate and make a full and proper accounting to the Settlor, whereupon the Trustee named shall be discharged and have no further responsibility under this Trust Agreement. Upon the failure of the Trustee to make such conveyance the Settlor may apply to the court having jurisdiction of this trust and such court may compel the conveyance by the Trustee. The substitute or successor Trustee upon acceptance of this trust and the Trust Estate shall succeed to and possess all the rights, powers and duties, authority and responsibility conferred upon the Trustee originally named herein.

ARTICLE XX

Definitions of Family. The following definitions shall be used to define the family:

1. **Definition of Children.** For purposes of this Trust, "children" of the Settlor means **STEPHANIE L. WARD, DAVID D. WARD** and **BRIAN C. WARD**, but "children" does not mean **STEPHEN A. WARD** and **JEREMY W. WARD**. For purposes of this Trust, "children" of the Settlor's wife means **ELIZABETH A. DIEMER** and **GARETT C. DIEMER**. "Issue" and "descendants" mean the lawful blood descendants in any degree of the ancestor designated; however, it does not include **STEPHEN A. WARD** and **JEREMY W. WARD** or their respective issue.

2. **Definition of Per Stirpes.** The term "per stirpes" as used herein has the identical meaning as the term "taking by representation" as defined in the South Carolina Probate Code.

ARTICLE XXI

Definition of Words Relating to the Internal Revenue Code. As used herein, the words "gross estate," "adjusted gross estate," "taxable estate," "unified credit" ("unified credit" shall also mean "applicable credit amount"), "applicable exclusion amount," "state death tax credit," "maximum marital deduction," "marital deduction," "pass," "qualified terminable interest," "qualified terminable interest property," and any other word or words which from the context in which it or they are used refer to the Internal Revenue Code shall have the same meaning as such words have for the purposes of applying the Internal Revenue Code to the Settlor's estate. For purposes of this Trust Agreement, the Settlor's "available generation-skipping transfer exemption" means the generation-skipping transfer tax exemption provided in section 2631 of the Internal Revenue Code of 1986, as amended, in effect at the time of the Settlor's death reduced by the aggregate of (1) the amount, if any, of the Settlor's exemption allocated to lifetime transfers of the Settlor by the Settlor or by operation of law, and (2) the amount, if any, the Settlor has specifically allocated to other property of the Settlor's gross estate for federal estate tax purposes. For purposes of this Trust Agreement if at the time of the Settlor's death the Settlor has made gifts with an inclusion ratio of greater than zero for which the gift tax return due date has not expired (including extensions) and the Settlor has not yet filed a return, it shall be deemed that the Settlor's generation-skipping transfer exemption has been allocated to these transfers to the extent necessary (and possible) to exempt the transfer(s) from generation-skipping transfer tax. Reference to sections of the Internal Revenue Code and to the Internal Revenue Code shall refer to the Internal Revenue Code amended to the date of the Settlor's death.

ARTICLE XXII

Simultaneous Death Provision Presuming Beneficiary Predeceases Settlor. If any beneficiary and the Settlor should die under such circumstances as would make it doubtful whether the beneficiary or the Settlor died first, then it shall be conclusively presumed for the purposes of this Trust that the beneficiary predeceased the Settlor.

ARTICLE XXIII

Payment of Funeral Expenses and Expenses of Last Illness of Income Beneficiary. On the death of any person entitled to income or support from any Trust hereunder, the Trustee is authorized to pay the funeral expenses and the expenses of the last illness of such person from the principal of the Trust from which such person was entitled to income or support.

ARTICLE XXIV

State Law to Govern. This Trust Agreement and the trusts created hereby shall be construed, regulated and governed by and in accordance with the laws of the State of South Carolina.

ARTICLE XXV

Agreement for Mutual Wills and Trusts. The Agreement for Mutual Wills and Trusts dated as of even date herewith between **STEPHEN D. WARD** and **NANCY L. WARD** is incorporated by reference into this Trust Agreement of Stephen D. Ward.

Testimonium Clause. IN WITNESS WHEREOF, the Settlor and the Trustee have executed this Trust Agreement.

WITNESSES:

Jeanne A. Pusey

Magdalena Cruz

Jeanne A. Pusey

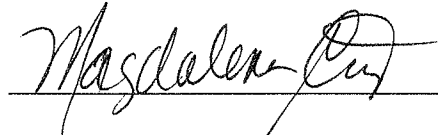
Magdalena Cruz

S. D. Ward
STEPHEN D. WARD, SETTLOR

S. D. Ward
STEPHEN D. WARD, TRUSTEE

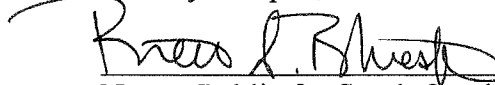
STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON) PROBATE

Personally appeared the undersigned witness and made oath that he saw the within named Settlor and Trustee sign, seal and as their act and deed deliver the within Trust Agreement and that deponent with the other witness whose name is subscribed above witnessed the execution thereof.



Sworn to before me this

21st day of April, 2005



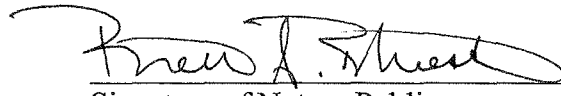
Notary Public for South Carolina

My Commission expires: July 24, 2012

STATE OF SOUTH CAROLINA)
) ACKNOWLEDGMENT
COUNTY OF CHARLESTON)

I, a Notary Public, within and for the State and County aforesaid do hereby certify that the foregoing instrument of writing was this day produced to me in the above State and County and was executed and acknowledged by **STEPHEN D. WARD**, as Settlor and Trustee, to be the free and voluntary act and deed of the Settlor and Trustee.

WITNESS my signature this 21st day of April, 2005.



Signature of Notary Public

Brett A. Bluestein

Typed Name of Notary Public

Notary Public for: South Carolina

My commission expires: July 24, 2012

4. First Amendment and Restatement of Trust Agreement of
Nancy L. Ward

**FIRST AMENDMENT AND RESTATEMENT
OF
TRUST AGREEMENT
OF
NANCY L. WARD**

Introductory Clause. This First Amendment and Restatement of Trust Agreement of **NANCY L. WARD** made this 21st day of April, 2005, between **NANCY L. WARD**, hereinafter referred to as the Settlor and **NANCY L. WARD**, hereinafter referred to as the Trustee.

The Settlor is married to **STEPHEN D. WARD** and has two living children: **ELIZABETH A. DIEMER** and **GARETT C. DIEMER**.

The Settlor has five living step-children: **STEPHANIE L. WARD**, **DAVID D. WARD**, **BRIAN C. WARD**, **STEPHEN A. WARD** and **JEREMY W. WARD**. The Settlor's husband's children **STEPHEN A. WARD** and **JEREMY W. WARD** and their respective issue shall not receive any benefits under this Trust Agreement as they will be provided for by their mother with assets she received from the Settlor's husband pursuant to their divorce. Their omission is intentional.

WHEREAS, the Settlor and the Trustee entered into the **NANCY DIEMER TRUST** dated April 28, 1998, hereinafter called the Trust Agreement; and

WHEREAS, ARTICLE SEVENTH of the Trust Agreement provided that the Settlor reserved the right to amend in any manner or revoke in whole or in part the Trust Agreement; and

WHEREAS, the Settlor is desirous of modifying and amending the Trust Agreement and the Trustee is agreeable to the modifications and amendments contained herein;

NOW, THEREFORE, IT IS AGREED that the entire Trust Agreement as modified and amended will read as follows:

ARTICLE I

Trustee Succession if Settlor Dies or Becomes Incapacitated. If the Settlor dies or is adjudicated to be incompetent or in the event that the Settlor is not adjudicated incompetent, but by reason of illness or mental or physical disability is, in the opinion of two licensed physicians, unable to properly handle the Settlor's own affairs, then and in that event the Trustee named below shall immediately become the Trustee under this Trust Agreement. The Settlor names the following as successor Trustee:

STEPHEN D. WARD

NW

Third parties may rely on an affidavit by the Trustee named above stating that the successor Trustee is now acting as Trustee hereunder.

ARTICLE II

Description of Property Transferred. The Settlor has paid over, assigned, granted, conveyed, transferred and delivered, and by this Agreement does hereby pay over, assign, grant, convey, transfer and deliver unto the Trustee certain property, and has caused or will cause the Trustee to be designated as beneficiary of certain life insurance policies. These insurance policies, and any other insurance policies that may be delivered to the Trustee hereunder or under which the Trustee may be designated as beneficiary, the proceeds of all such policies being payable to the Trustee, and any other property that may be received or which has been received by the Trustee hereunder, as invested and reinvested (hereinafter referred to as the "Trust Estate"), shall be held, administered and distributed by the Trustee as hereinafter set forth.

ARTICLE III

Rights of Settlor and Trustee in Insurance Policies. During the Settlor's lifetime, the Settlor shall have all rights under any life insurance policies payable to the Trustee, including the right to change the beneficiary, to receive any dividends or other earnings of such policies without accountability therefor to the Trustee or any beneficiary hereunder, and may assign any policies to any lender, including the Trustee, as security for any loan to the Settlor or any other person; and the Trustee shall have no responsibility with respect to any policies, for the payment of premiums or otherwise, except to hold any policies received by the Trustee in safekeeping and to deliver them upon the Settlor's written request and upon the payment to the Trustee of reasonable compensation for services. The rights of any assignee of any policy shall be superior to the rights of the Trustee. If any policy is surrendered or if the beneficiary of any policy is changed, this trust shall be revoked with respect to such policy. However, no revocation of the trust with respect to any policy, whether pursuant to the provisions of the preceding sentence or otherwise, shall be effective unless the surrender or change in beneficiary of the policy is accepted by the insurance company. Upon the death of the insured under any policy held by or known to, and payable to, the Trustee, or upon the occurrence of some event prior to the death of the Settlor that matures any such policy, the Trustee, in its discretion, either may collect the net proceeds and hold them as part of the principal of the Trust Estate, or may exercise any optional method of settlement available to it, and the Trustee shall deliver any policies on the Settlor's life held by it and payable to any other beneficiaries as those beneficiaries may direct. Payment to, and the receipt of, the Trustee shall be a full discharge of the liability of any insurance company, which need not take notice of this agreement or see to the application of any payment. The Trustee need not engage in litigation to enforce payment of any policy without indemnification satisfactory to it for any resulting expenses.

ARTICLE IV

Provisions for Settlor During Lifetime. The Trustee shall hold, manage, invest and reinvest the Trust Estate (if any requires such management and investment) and shall collect the income, if any, therefrom and shall dispose of the net income and principal as follows:

NW

1. During the lifetime of the Settlor, the Trustee shall pay to or apply for the benefit of the Settlor all the net income from this Trust.

2. During the lifetime of the Settlor, the Trustee may pay to or apply for the benefit of the Settlor such sums from the principal of this Trust as in its sole discretion shall be necessary or advisable from time to time for the medical care, education, support and maintenance in reasonable comfort of the Settlor, taking into consideration to the extent the Trustee deems advisable, any other income or resources of the Settlor known to the Trustee.

3. During the Settlor's lifetime and in the event that the Settlor is adjudicated to be incompetent or in the event that the Settlor is not adjudicated incompetent, but by reason of illness or mental or physical disability is, in the opinion of the Trustee, unable to properly handle the Settlor's own affairs, then and in that event the Trustee shall have the authorization to engage in additional estate planning to reduce the expected gift and estate tax liability as well as provide for additional resources for family transfers and, if consistent with the Settlor's desires, charitable purposes. The estate planning, which is specifically authorized, may include the design, implementation, and funding of techniques such as limited partnerships, limited liability companies, lifetime gifts and transfers, qualified personal residence trusts, charitable trusts, family foundations, and other trusts and techniques designed to reduce the total estate and gift taxes anticipated to be paid by the Settlor and the Settlor's estate to increase the expected benefit to the Settlor's family, beneficiaries, and charities, if any.

4. During the Settlor's lifetime and in the event that the Settlor is adjudicated to be incompetent or in the event that the Settlor is not adjudicated incompetent, but by reason of illness or mental or physical disability is, in the opinion of the Trustee, unable to properly handle the Settlor's own affairs, then and in that event the Trustee shall have the authorization to (but shall not be required to) make gifts equal to or in excess of the annual gift tax exclusion to the Settlor's children and their issue, and their respective spouses, if appropriate, and in such amounts and upon such terms and conditions as the Trustee, in the Trustee's discretion, shall determine.

ARTICLE V

Settlor's Rights to Amend, Change or Revoke the Trust Agreement. Except as provided for in the **AGREEMENT FOR MUTUAL WILLS AND TRUSTS**, dated as of even date herewith and entered into between the Settlor and the Settlor's husband, **STEPHEN D. WARD**, the Settlor may, by signed instruments delivered to the Trustee during the Settlor's life: (1) withdraw property from this Trust in any amount and at any time upon giving reasonable notice in writing to the Trustee; (2) add other property to the Trust; (3) change the beneficiaries, their respective shares and the plan of distribution; (4) amend this Trust Agreement in any other respect; (5) revoke this Trust in its entirety or any provision therein; provided, however, the duties or responsibilities of the Trustee shall not be enlarged without the Trustee's consent nor without satisfactory adjustment of the Trustee's compensation.

ARTICLE VI

Discretionary Provisions for Trustee to Deal with Settlor's Estate and Make Payment of Debts and Taxes. After the Settlor's death, the Trustee, if in its discretion it deems it advisable, may pay all or any part of the Settlor's funeral expenses, legally enforceable claims against the Settlor or the Settlor's estate, reasonable expenses of administration of the Settlor's estate, any allowances by court order to those dependent upon the Settlor, any estate, inheritance, succession, death or similar taxes payable by reason of the Settlor's death, together with any interest thereon or other additions thereto, without reimbursement from the Settlor's executors or administrators, from any beneficiary of insurance upon the Settlor's life, or from any other person. All such payments, except of interest, shall be charged generally against the principal of the Trust Estate includable in the Settlor's estate for Federal estate tax purposes and any interest so paid shall be charged generally against the income thereof; provided, however, any such payments of estate, inheritance, succession, death or similar taxes (except generation-skipping transfer taxes) shall be charged against the principal constituting the **Family Trust** and any interest so paid shall be charged against the income thereof. If such share or trust was created as a fraction, then such taxes thus paid shall reduce the numerator of that share or trust and the Trust Estate, thus likewise reducing the denominator of the fraction. The Trustee may make such payments directly or may pay over the amounts thereof to the executors or administrators of the Settlor's estate. Written statements by the executors or administrators of such sums due and payable by the estate shall be sufficient evidence of their amount and propriety for the protection of the Trustee and the Trustee shall be under no duty to see to the application of any such payments. If administrative expenses are deducted on the estate's income tax return but paid from principal, then they shall be charged against the Family Trust. The Trustee shall have the power to charge expenses of administration against income or principal, or apportion such expenses; provided, however, this power may not be exercised in a way which would reduce or otherwise adversely affect the marital or charitable deduction otherwise available for federal estate tax purposes. The Trustee shall not exercise this discretion in a manner which is inconsistent with the IRC regulations now in effect or subsequently promulgated.

ARTICLE VII

Specific Distributions. Upon the death of the Settlor, the Trustee shall make the following distributions:

(1) **Specific Distribution.** The Charles Schwab & Co., Inc. Account Number 9091-9831 shall be distributed outright and free of trust to the Settlor's surviving children in approximately equal shares; provided, however, the surviving issue of a deceased child shall take per stirpes the share their parent would have taken had he or she survived the Settlor. If **ELIZABETH A. DIEMER** predeceases the Settlor and has no issue then living, the share of **ELIZABETH A. DIEMER** shall be distributed per stirpes to the issue of **GARETT C. DIEMER**, if any, and in default of issue to **GARETT C. DIEMER**. If **GARETT C. DIEMER** predeceases the Settlor and has no issue then living, the share of **GARETT C. DIEMER** shall be distributed per stirpes to the issue of **ELIZABETH A. DIEMER**, if any, and in default of issue to **ELIZABETH A. DIEMER**.

(2) **Definition of Trust Estate.** As used in this Trust Agreement, the words "Trust Estate" shall mean the entire Trust Estate minus the specific distributions under this Article.

ARTICLE VIII

Upon the death of the Settlor, the Trustee shall divide the Trust Estate (which shall include any property which may be added from the Settlor's general estate) as follows:

1. **Creation of The Marital Trust and The Family Trust.** If the Settlor is survived by the Settlor's husband, **STEPHEN D. WARD**, the Trustee shall divide the Trust Estate into Two (2) separate shares, hereinafter designated as "**the Marital Trust**" and "**the Family Trust**." **The Marital Trust** shall be composed of cash, securities or other property of the Trust Estate (undiminished by any estate, inheritance, succession, death or similar taxes) having a value equal to the maximum marital deduction as finally determined in the Settlor's federal estate tax proceedings, less the aggregate amount of marital deductions, if any, allowed for such estate tax purposes by reason of property or interests in property passing or which have passed to the Settlor's husband otherwise than pursuant to the provisions of this Article; provided, however, the amount for **the Marital Trust** hereunder shall be reduced by the amount, if any, needed to increase the Settlor's taxable estate (for federal estate tax purposes) to the largest amount that, after allowing for the unified credit against the federal estate tax, and the state death tax credit against such tax (but only to the extent that the use of such state death tax credit does not increase the death tax payable to any state), will result in the smallest (if any) federal estate tax being imposed on the Settlor's estate. The term "maximum marital deduction" shall not be construed as a direction by the Settlor to exercise any election respecting the deduction of estate administration expenses, the determination of the estate tax valuation date, or any other tax election which may be available under any tax laws, only in such manner as will result in a larger allowable estate tax marital deduction than if the contrary election had been made. The Trustee shall have the sole discretion to select the assets which shall constitute **the Marital Trust**. In no event, however, shall there be included in this **the Marital Trust** any asset or the proceeds of any asset which will not qualify for the federal estate tax marital deduction, and this **the Marital Trust** shall be reduced to the extent that it cannot be created with such qualifying assets. The Trustee shall value any asset selected by the Trustee for distribution in kind as a part of **the Marital Trust** hereunder at the value of such asset at the date of distribution of such asset. **The Marital Trust** shall be administered as hereinafter set forth. **The Family Trust** shall be the balance of the Trust Estate after the assets have been selected for **the Marital Trust**.

2. **Creation of the Family Trust.** If the Settlor's husband shall not survive the Settlor, **the Family Trust** shall be the entire Trust Estate.

The Marital Trust and the Family Trust shall be administered as hereinafter set forth.

ARTICLE IX

The Family Trust Introductory Provision. **The Family Trust** shall be held, administered and distributed as follows:

NW

1. **Payment to Husband of All Income.** If the Settlor's husband shall survive the Settlor, then commencing with the date of the Settlor's death, the Trustee shall pay to or apply for the benefit of the Settlor's husband during his lifetime all the net income from **the Family Trust** in convenient installments but no less frequently than quarter-annually.

2. **Discretionary Payments of Principal for Husband.** If the Settlor's husband shall survive the Settlor, and if there is no principal remaining in the Marital Trust, the Trustee may pay to or apply for the benefit of the Settlor's husband during his lifetime, such sums from the principal of **the Family Trust** as in its sole discretion shall be necessary or advisable from time to time for the medical care, education, support and maintenance in reasonable comfort of the Settlor's husband, taking into consideration to the extent the Trustee deems advisable, any other income or resources of the Settlor's husband known to the Trustee.

3. **Outright Final Distribution if Husband is Deceased.** Upon or after the death of the survivor of the Settlor's husband and the Settlor, **the Family Trust** shall be distributed outright and free of trust to **STEPHANIE L. WARD, DAVID D. WARD, BRIAN C. WARD, ELIZABETH A. DIEMER** and **GARETT C. DIEMER**, in five (5) approximately equal shares; provided, however, if one of these individuals are deceased then the issue of the deceased individual surviving the Settlor and the Settlor's husband shall take per stirpes the share their parent would have taken had he or she survived the Settlor and the Settlor's husband. If any of **STEPHANIE L. WARD, DAVID D. WARD** or **BRIAN C. WARD** predecease the survivor of the Settlor and the Settlor's husband and has no issue then living, the share of such predeceased individual shall be distributed per stirpes to the Settlor's husband's issue. If **ELIZABETH A. DIEMER** predeceases the survivor of the Settlor and the Settlor's husband and has no issue then living, the share of **ELIZABETH A. DIEMER** shall be distributed per stirpes to the issue of **GARETT C. DIEMER**, if any, and in default of issue to **GARETT C. DIEMER**. If **GARETT C. DIEMER** predeceases the survivor of the Settlor and the Settlor's husband and has no issue then living, the share of **GARETT C. DIEMER** shall be distributed per stirpes to the issue of **ELIZABETH A. DIEMER**, if any, and in default of issue to **ELIZABETH A. DIEMER**.

ARTICLE X

The Marital Trust Introductory Provision. The Marital Trust shall be held, administered and distributed as follows:

1. **Direction to Pay All Income to Husband.** Commencing with the date of the Settlor's death, the Trustee shall pay to or apply for the benefit of the Settlor's husband during his lifetime all the net income from **the Marital Trust** in convenient installments but no less frequently than quarter-annually. Any accrued and undistributed income at the death of the Settlor's husband shall be paid with the entire remaining principal as provided in this **the Marital Trust**.

2. **Discretionary Payments of Principal by Trustee for Benefit of Husband.** In addition, the Trustee may pay to or apply for the benefit of the Settlor's husband such sums from the principal of **the Marital Trust** as in its sole discretion shall be necessary or advisable from time to time for the medical care, education, support and maintenance in reasonable comfort of

nw

the Settlor's husband, taking into consideration to the extent the Trustee deems advisable, any other income or resources of the Settlor's husband known to the Trustee.

3. **Power in Husband to Cause Nonproductive Property to Be Made Productive.** The Settlor's husband may at any time by written notice, require the Trustee either to make any nonproductive property of this trust productive or to convert such nonproductive property to productive property within a reasonable time.

4. **Payment of Death Taxes From the Marital Trust on Death of Husband.** Unless the Settlor's husband's Will specifically provides that the estate, succession, death or similar taxes assessed with respect to the assets of **the Marital Trust** be paid otherwise, the Trustee shall pay to the executors or administrators of the estate of the husband for the purposes of paying such taxes, the amount by which such taxes assessed by reason of the Settlor's husband's death shall be increased as a result of the inclusion of the assets of **the Marital Trust** in his estate for such tax purposes.

5. **Trust Property to Be Added to the Family Trust on Husband's Death.** Upon the death of the Settlor's husband, the entire remaining principal of **the Marital Trust** shall be added to and become a part of **the Family Trust** and shall be held and administered or distributed in whole or in part, as if it had been an original part of **the Family Trust**.

ARTICLE XI

Trustee Succession, Trustee's Fees and Other Matters. The provisions for naming the Trustee, Trustee succession, Trustee's fees and other matters are set forth below:

1. **Individual Trustees Succession.** If **STEPHEN D. WARD** should fail to qualify as successor Trustee hereunder, or for any reason should cease to act in such capacity, the successor or substitute Trustee who shall also serve without bond shall be the Settlor's brother **ROBERT A. GOEKEL**.

2. **Final Succession If Individual Successor Trustee Cannot Act.** If **STEPHEN D. WARD** and **ROBERT A. GOEKEL** should fail to qualify as individual successor Trustee hereunder, or for any reason should cease to act in such capacity, then the successor or substitute Trustee who shall also serve without bond shall be **ELIZABETH A. DIEMER** and **GARETT C. DIEMER**. If any individual Trustee named herein should fail to qualify as Trustee hereunder, or for any reason should cease to act in such capacity, the remaining Trustees named herein shall continue to serve without a successor or substitute.

3. **Fee Schedule for Individual Trustee.** For its services as Trustee, the individual Trustee shall receive no compensation but shall be entitled to reimbursement for reasonable expenses.

4. **Trustee Voting Rights.** If there is more than one Trustee serving, then the vote of the Trustees for any action hereunder must be by majority action of the Trustees. Provided, however, that if only two Trustees shall be serving as co-Trustees, then the Trustees shall act with unanimity on all actions, unless the co-Trustees shall have otherwise agreed in writing.

5. **Delegation Among Trustees.** When there is more than one individual or entity serving as co-Trustees, then any Trustee may delegate to any other Trustee the power to exercise any or all of the powers granted to the Trustees in this Trust Agreement, including those powers, which are discretionary, to the extent allowed by law. Any delegating Trustee may revoke any such delegation with written notice to the other serving co-Trustees. The delegation of any such power, as well as the revocation of any such delegation, shall be evidenced by an instrument in writing signed by the delegating co-Trustee. As long as any such delegation is in effect, any of the delegated powers may be exercised by the Trustee receiving such delegation with the same force and effect as if the delegating Trustee had personally joined in the exercise of such power. Provided, however, that if such Trustee, or co-Trustee, shall also be a current beneficiary and such delegation shall be deemed to create in that Trustee a right that shall be deemed to be a general power of appointment, then such individual Trustee shall not be vested with such right to delegate such power.

6. **Limitations on Trustees.** No person who at any time is acting as Trustee hereunder shall have any power or obligation to participate in any discretionary authority which the Settlor has given to the Trustee to pay principal or income to such person, or for his or her benefit or in relief of his or her legal obligations.

ARTICLE XII

Definition of Trustee. Whenever the word "Trustee" or any modifying or substituted pronoun therefor is used in this Trust, such words and respective pronouns shall include both the singular and the plural, the masculine, feminine and neuter gender thereof, and shall apply equally to the Trustee named herein and to any successor or substitute Trustee acting hereunder, and such successor or substitute Trustee shall have all the rights, powers and duties, authority and responsibility conferred upon the Trustee originally named herein.

ARTICLE XIII

Powers for Trustee. The Trustee is authorized in its fiduciary discretion (which shall be subject to the standard of reasonableness and good faith to all beneficiaries) with respect to any property, real or personal, at any time held under any provision of this Trust Agreement and without authorization by any court and in addition to any other rights, powers, authority and privileges granted by any other provision of this Trust Agreement or by statute or general rules of law:

1. To retain in the form received any property or undivided interests in property donated to, or otherwise acquired as a part of the Trust Estate, including residential property and shares of the Trustee's own stock, regardless of any lack of diversification, risk or nonproductivity, as long as it deems advisable, and to exchange any such security or property for other securities or properties and to retain such items received in exchange, although such property represents a large percentage of the total property of the Trust Estate or even the entirety thereof.

2. To invest and reinvest all or any part of the Trust Estate in any property and undivided interests in property, wherever located, including bonds, debentures, notes, secured or unsecured, stocks of corporations regardless of class, interests in limited partnerships, limited liability companies or similar entities, real estate or any interest in real estate whether or not productive at the time of investment, interests in trusts, investment trusts, whether of the open and/or closed fund types, and participation in common, collective or pooled trust funds of the Trustee, insurance contracts on the life of any beneficiary or annuity contracts for any beneficiary, without being limited by any statute or rule of law concerning investments by fiduciaries.

3. To sell or dispose of or grant options to purchase any property, real or personal, constituting a part of the Trust Estate, for cash or upon credit, to exchange any property of the Trust Estate for other property, at such times and upon such terms and conditions as it may deem best, and no person dealing with it shall be bound to see to the application of any monies paid.

4. To hold any securities or other property in its own name as Trustee, in its own name, in the name of a nominee (with or without disclosure of any fiduciary relationship) or in bearer form.

5. To keep, at any time and from time to time, all or any portion of the Trust Estate in cash and uninvested for such period or periods of time as it may deem advisable, without liability for any loss in income by reason thereof.

6. To sell or exercise stock subscription or conversion rights.

7. To refrain from voting or to vote shares of stock which are a part of the Trust Estate at shareholders' meetings in person or by special, limited, or general proxy and in general to exercise all the rights, powers and privileges of an owner in respect to any securities constituting a part of the Trust Estate.

8. To participate in any plan of reorganization or consolidation or merger involving any company or companies whose stock or other securities shall be part of the Trust Estate, and to deposit such stock or other securities under any plan of reorganization or with any protective committee and to delegate to such committee discretionary power with relation thereto, to pay a proportionate part of the expenses of such committee and any assessments levied under any such plan, to accept and retain new securities received by the Trustee pursuant to any such plan, to exercise all conversion, subscription, voting and other rights, of whatsoever nature pertaining to such property, and to pay any amount or amounts of money as it may deem advisable in connection therewith.

9. To borrow money and to encumber, mortgage or pledge any asset of the Trust Estate for a term within or extending beyond the term of the trust, in connection with the exercise of any power vested in the Trustee.

10. To enter for any purpose into a lease as lessor or lessee with or without option to purchase or renew for a term within or extending beyond the term of the trust.

11. To subdivide, develop, or dedicate real property to public use or to make or obtain the vacation of plats and adjust boundaries, to adjust differences in valuation on exchange or partition by giving or receiving consideration, and to dedicate easements to public use without consideration.

12. To make ordinary or extraordinary repairs or alterations in buildings or other structures, to demolish any improvements, to raze existing or erect new party walls or buildings.

13. To continue and operate any business owned by the Settlor at the Settlor's death and to do any and all things deemed needful or appropriate by the Trustee, including the power to incorporate the business and to put additional capital into the business, for such time as it shall deem advisable, without liability for loss resulting from the continuance or operation of the business except for its own negligence; and to close out, liquidate or sell the business at such time and upon such terms as it shall deem best.

14. To collect, receive, and receipt for rents, issues, profits, and income of the Trust Estate.

15. To insure the assets of the Trust Estate against damage or loss and the Trustee against liability with respect to third persons.

16. In buying and selling assets, in lending and borrowing money, and in all other transactions, irrespective of the occupancy by the same person of dual positions, to deal with itself in its separate, or any fiduciary capacity.

17. To compromise, adjust, arbitrate, sue on or defend, abandon, or otherwise deal with and settle claims in favor of or against the Trust Estate as the Trustee shall deem best.

18. To employ and compensate agents, accountants, investment advisers, brokers, attorneys-in-fact, attorneys-at-law, tax specialists, realtors, and other assistants and advisors deemed by the Trustee needful for the proper administration of the Trust Estate, and to do so without liability for any neglect, omission, misconduct, or default of any such agent or professional representative provided such person was selected and retained with reasonable care.

19. To determine what shall be fairly and equitably charged or credited to income and what to principal.

20. To hold and retain the principal of the Trust Estate undivided until actual division shall become necessary in order to make distributions; to hold, manage, invest, and account for the several shares or parts thereof by appropriate entries on the Trustee's books of account; and to allocate to each share or part of share its proportionate part of all receipts and expenses; provided, however, the carrying of several trusts as one shall not defer the vesting in title or in possession of any share or part of share thereof.

21. To make payment in cash or in kind, or partly in cash and partly in kind upon any division or distribution of the Trust Estate (including the satisfaction of any pecuniary distribution) without regard to the income tax basis of any specific property allocated to any beneficiary and to value and appraise any asset and to distribute such asset in kind at its appraised value; and when dividing fractional interests in property among several beneficiaries to allocate entire interests in some property to one beneficiary and entire interests in other property to another beneficiary or beneficiaries.

22. In general, to exercise all powers in the management of the Trust Estate which any individual could exercise in his or her own right, upon such terms and conditions as it may reasonably deem best, and to do all acts which it may deem reasonably necessary or proper to carry out the purposes of this Trust Agreement.

23. To purchase property, real or personal, from the Settlor's general estate upon such terms and conditions as to price and terms of payment as the Settlor's executors or administrators and the Trustee shall agree, to hold the property so purchased as a part of the Trust Estate although it may not qualify as an authorized trust investment except for this provision, and to dispose of such property as and when the Trustee shall deem advisable. The fact that the Settlor's executors or administrators and the Trustee are the same shall in no way affect the validity of this provision.

24. To lend funds to the Settlor's general estate upon such terms and conditions as to interest rates, maturities, and security as the Settlor's executors or administrators and the Trustee shall agree, the fact that they may be the same in no way affecting the validity of this provision.

25. To receive property bequeathed, devised or donated to the Trustee by the Settlor or any other person; to receive the proceeds of any insurance policy which names the Trustee as beneficiary; to execute all necessary receipts and releases to Executors, donors, insurance companies and other parties adding property to the Trust Estate.

26. To combine assets of two or more trusts if the provisions and terms of each trust are substantially identical, and to administer them as a single trust, if the Trustee reasonably determines that the administration as a single trust is consistent with the Settlor's intent, and facilitates the trust's administration without defeating or impairing the interests of the beneficiaries.

27. To divide any trust into separate shares or separate trusts or to create separate trusts if the Trustee reasonably deems it appropriate and the division or creation is consistent with the Settlor's intent, and facilitates the trust's administration without defeating or impairing the interests of the beneficiaries.

28. To divide property in any trust being held hereunder with an inclusion ratio, as defined in section 2642(a)(1) of the Internal Revenue Code of 1986, as from time to time amended or under similar future legislation, of neither one nor zero into two separate trusts representing two fractional shares of the property being divided, one to have an inclusion ratio of one and the other to have an inclusion ratio of zero, to create trusts to receive property with an

NW

inclusion ratio of either one or zero and if this cannot be done to refuse to accept property which does not have a matching inclusion ratio to the receiving trust's ratio, all as the Trustee in its sole discretion deems best.

29. If the Trustee shall act as the Executor of the Settlor's estate, to elect to allocate any portion or all the Settlor's generation-skipping transfer exemption provided for in Code section 2631 or under similar future legislation, in effect at the time of the Settlor's death, to any portion or all of any other trusts or bequests in the Settlor's Will or any other transfer which the Settlor is the transferor for purposes of the generation-skipping tax. Generally, the Settlor anticipates that the Settlor's Executor will elect to allocate this exemption first to direct skips as defined in Code section 2612, then to the **Family Trust**, unless it would be inadvisable based on all the circumstances at the time of making the allocation; and to make the special election under section 2652(a)(3) of the Code to the extent the Settlor's Executor deems in the best interest of the Settlor's estate.

ARTICLE XIV

Trustee's Discretion to Allow Beneficiary or Beneficiaries to Occupy Residential Real Estate. The Trustee may in its discretion permit any beneficiary or beneficiaries to occupy rent free any residence constituting a part of the trust assets for such beneficiary or beneficiaries and to pay the real estate taxes thereon, expenses of maintaining the residence in suitable repair and condition and hazard insurance premiums on the residence. Provided, however, the Trustee shall not exercise this power in any way which would deprive the husband under the Marital Trust of the beneficial enjoyment of the Marital Trust and the husband shall have the right to limit, restrict or terminate the Trustee's exercises of this power if they interfere with such beneficial enjoyment.

ARTICLE XV

Marital Deduction Savings Clause for the Marital Trust. It is expressly provided that the grant of rights, powers, privileges and authority to the Trustee in connection with the imposition of duties upon the Trustee by any provision of this Trust Agreement or by any statute relating thereto shall not be effective if and to the extent that the same, if effective, would disqualify the marital deduction as established in **the Marital Trust** hereof. It is the Settlor's intention that the Settlor's husband under the provisions of **the Marital Trust** have substantially that degree of beneficial enjoyment of the Trust Estate during his lifetime which the principles of the law of trusts accord to a person who is unqualifiedly designated as the life beneficiary of a trust and the Trustee shall not exercise its discretion in a manner which is not in accord with this expressed intention. The Trustee shall invest the Trust Estate so it will produce for the Settlor's husband during his lifetime an income or use which is consistent with the value of the Trust Estate and with its preservation. It is expressly provided that the Trustee shall not in the exercise of its discretion make any determination inconsistent with the foregoing.

ARTICLE XVI

Provision for Trustee to Act as Trustee for Beneficiary Under Age Twenty-One. If any share hereunder becomes distributable to a beneficiary who has not attained the age of

Twenty-one (21), such share shall immediately vest in the beneficiary, but notwithstanding the provisions herein, the Trustee shall retain possession of the share in trust for the beneficiary until the beneficiary attains the age of Twenty-one (21), using so much of the net income and principal of the share as the Trustee deems necessary to provide for the medical care, education, support and maintenance in reasonable comfort of the beneficiary, taking into consideration to the extent the Trustee deems advisable any other income or resources of the beneficiary or his or her parents known to the Trustee. Any income not so paid or applied shall be accumulated and added to principal. The beneficiary's share shall be paid over and distributed to the beneficiary upon attaining age Twenty-one (21), or if he or she shall sooner die, to his or her executors or administrators. The Trustee shall have with respect to each share so retained all the powers and discretions it had with respect to the trusts created herein generally.

ARTICLE XVII

Trustee's Discretion in Making Payments to a Person Under Age Twenty-One, Incompetent, or Incapacitated Person. In case the income or principal payment under any trust created hereunder or any share thereof shall become payable to a person under the age of Twenty-one (21), or to a person under legal disability, or to a person not adjudicated incompetent, but who, by reason of illness or mental or physical disability, is, in the opinion of the Trustee unable properly to administer such amounts, then such amounts shall be paid out by the Trustee in such of the following ways as the Trustee deems best: (1) directly to the beneficiary; (2) to the legally appointed guardian of the beneficiary; (3) to some relative or friend for the medical care, education, support and maintenance in reasonable comfort of the beneficiary; (4) by the Trustee using such amounts directly for the beneficiary's care, support and education; (5) to a custodian for the beneficiary under the Uniform Gifts or Transfers to Minors Act. Provided, however, that the Trustee shall not make any payment from the Marital Trust under (3) above.

ARTICLE XVIII

Power of Trustee to Resign During Settlor's Lifetime. Any Trustee may resign this trusteeship during the Settlor's lifetime by giving the Settlor Thirty (30) days notice in writing delivered to the Settlor in person or mailed to the Settlor's last known address, the resignation to become effective as hereinafter provided. Upon receipt of such notice, the Settlor shall appoint a successor Trustee. Upon the failure of the Settlor to appoint a successor Trustee who accepts the trust within Thirty (30) days from the time notice was delivered in person or mailed to the Settlor, the Trustee may resign to the court having jurisdiction over this trust, which court may, if it deems advisable, accept the resignation and appoint a successor Trustee which shall be an individual as successor to an individual trustee or a bank or trust company qualified to do business in the state of the Settlor's domicile as successor to a corporate trustee. Upon the appointment of and acceptance by the successor Trustee, the original Trustee shall pay over, deliver, assign, transfer or convey to such successor Trustee the Trust Estate and make a full and proper accounting to the Settlor, whereupon its resignation shall become effective. The substitute or successor Trustee upon acceptance of this trust and the Trust Estate shall succeed to and have all the rights, powers and duties, authority and responsibility conferred upon the Trustee originally named herein.

ARTICLE XIX

Settlor During Lifetime to Designate Substitute or Successor Trustee. The Settlor during the Settlor's lifetime may name a substitute or successor Trustee by delivery to any Trustee herein a notice naming the successor or substitute Trustee and indicating an intent to replace the Trustee named. Upon receipt of such notice the Trustee named shall pay over, deliver, assign, transfer or convey to such substitute or successor Trustee (which accepts the appointment as trustee), the Trust Estate and make a full and proper accounting to the Settlor, whereupon the Trustee named shall be discharged and have no further responsibility under this Trust Agreement. Upon the failure of the Trustee to make such conveyance the Settlor may apply to the court having jurisdiction of this trust and such court may compel the conveyance by the Trustee. The substitute or successor Trustee upon acceptance of this trust and the Trust Estate shall succeed to and possess all the rights, powers and duties, authority and responsibility conferred upon the Trustee originally named herein.

ARTICLE XX

Definitions of Family. The following definitions shall be used to define the family:

1. **Definition of Children.** For purposes of this Trust, "children" of the Settlor means **ELIZABETH A. DIEMER** and **GARETT C. DIEMER**. For purposes of this Trust, "children" of the Settlor's husband means **STEPHANIE L. WARD**, **DAVID D. WARD** and **BRIAN C. WARD**, but "children" does not mean **STEPHEN A. WARD** and **JEREMY W. WARD**. "Issue" and "descendants" mean the lawful blood descendants in any degree of the ancestor designated; however, it does not include **STEPHEN A. WARD** and **JEREMY W. WARD** or their respective issue.

2. **Definition of Per Stirpes.** The term "per stirpes" as used herein has the identical meaning as the term "taking by representation" as defined in the South Carolina Probate Code.

ARTICLE XXI

Definition of Words Relating to the Internal Revenue Code. As used herein, the words "gross estate," "adjusted gross estate," "taxable estate," "unified credit" ("unified credit" shall also mean "applicable credit amount"), "applicable exclusion amount," "state death tax credit," "maximum marital deduction," "marital deduction," "pass," "qualified terminable interest," "qualified terminable interest property," and any other word or words which from the context in which it or they are used refer to the Internal Revenue Code shall have the same meaning as such words have for the purposes of applying the Internal Revenue Code to the Settlor's estate. For purposes of this Trust Agreement, the Settlor's "available generation-skipping transfer exemption" means the generation-skipping transfer tax exemption provided in section 2631 of the Internal Revenue Code of 1986, as amended, in effect at the time of the Settlor's death reduced by the aggregate of (1) the amount, if any, of the Settlor's exemption allocated to lifetime transfers of the Settlor by the Settlor or by operation of law, and (2) the amount, if any, the Settlor has specifically allocated to other property of the Settlor's gross estate for federal estate tax purposes. For purposes of this Trust Agreement if at the time of the Settlor's death the Settlor has made gifts with an inclusion ratio of greater than zero for which

the gift tax return due date has not expired (including extensions) and the Settlor has not yet filed a return, it shall be deemed that the Settlor's generation-skipping transfer exemption has been allocated to these transfers to the extent necessary (and possible) to exempt the transfer(s) from generation-skipping transfer tax. Reference to sections of the Internal Revenue Code and to the Internal Revenue Code shall refer to the Internal Revenue Code amended to the date of the Settlor's death.

ARTICLE XXII

Simultaneous Death Provision Presuming Beneficiary Predeceases Settlor. If any beneficiary and the Settlor should die under such circumstances as would make it doubtful whether the beneficiary or the Settlor died first, then it shall be conclusively presumed for the purposes of this Trust that the beneficiary predeceased the Settlor.

ARTICLE XXIII

Payment of Funeral Expenses and Expenses of Last Illness of Income Beneficiary. On the death of any person entitled to income or support from any Trust hereunder, the Trustee is authorized to pay the funeral expenses and the expenses of the last illness of such person from the principal of the Trust from which such person was entitled to income or support.

ARTICLE XXIV

State Law to Govern. This Trust Agreement and the trusts created hereby shall be construed, regulated and governed by and in accordance with the laws of the State of South Carolina.

ARTICLE XXV

Agreement for Mutual Wills and Trusts. The Agreement for Mutual Wills and Trusts dated as of even date herewith between STEPHEN D. WARD and NANCY L. WARD is incorporated by reference into this First Amendment and Restatement of Trust Agreement of Nancy L. Ward.

NW

Testimonium Clause. IN WITNESS WHEREOF, the Settlor and the Trustee have executed this Trust Agreement.

WITNESSES:

Jeane A. Pusey
Magdalena Cruz

Jeane A. Pusey
Magdalena Cruz

Nancy L. Ward
NANCY L. WARD, SETTLOR

Nancy L. Ward
NANCY L. WARD, TRUSTEE

STATE OF SOUTH CAROLINA

)

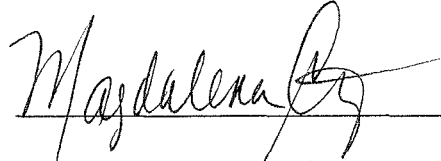
)

)

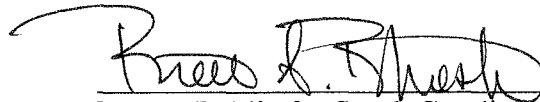
P R O B A T E

COUNTY OF CHARLESTON

Personally appeared the undersigned witness and made oath that she saw the within named Settlor and Trustee sign, seal and as their act and deed deliver the within Trust Agreement and that deponent with the other witness whose name is subscribed above witnessed the execution thereof.



Sworn to before me this
21st day of April, 2005



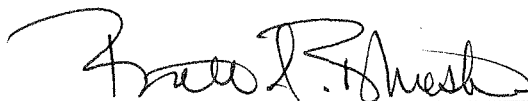
Notary Public for South Carolina

My Commission expires: July 24, 2012

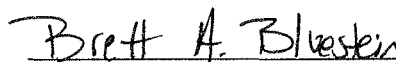
STATE OF SOUTH CAROLINA)
) ACKNOWLEDGMENT
COUNTY OF CHARLESTON)

I, a Notary Public, within and for the State and County aforesaid do hereby certify that the foregoing instrument of writing was this day produced to me in the above State and County and was executed and acknowledged by **NANCY L. WARD**, as Settlor and Trustee, to be the free and voluntary act and deed of the Settlor and Trustee.

WITNESS my signature this 21st day of April, 2005.



Signature of Notary Public



Typed Name of Notary Public

Notary Public for: South Carolina

My commission expires: July 29, 2012

5. Agreement for Mutual Wills and Trusts

STATE OF SOUTH CAROLINA)
) **AGREEMENT FOR MUTUAL WILLS**
COUNTY OF CHARLESTON) **AND TRUSTS**

THIS AGREEMENT FOR MUTUAL WILLS AND TRUSTS made this 21st day of April, 2005, between Stephen D. Ward of the County of Charleston, State of South Carolina (hereinafter called "Husband") and Nancy L. Ward of the County of Charleston, State of South Carolina (hereinafter called "Wife").

I. DEFINITIONS. In addition to any other terms whose definitions are fixed and defined by this Agreement, each of the following defined terms, when used in this Agreement with an initial capital letter, shall have the meaning ascribed thereto by this paragraph:

1.1 “Agreement” means this Agreement for Mutual Wills and Trusts together with all exhibits attached hereto.

1.2 “Husband” means Stephen D. Ward.

1.3 “Husband’s Trust” means the Trust Agreement of Stephen D. Ward of even date herewith, a copy of which is attached hereto as Exhibit 1.

1.4 “Husband’s Will” means the Last Will and Testament of Stephen D. Ward of even date herewith, a copy of which is attached hereto as Exhibit 2.

1.5 “Parties” means Stephen D. Ward and Nancy L. Ward.

1.6 "Predecessor" means that person, as between the Husband and the Wife, who is first to die.

1.7 “Property” means all of the property of the Survivor at time of the Predecessor’s death, together with all property acquired by the Survivor because of the Predecessor’s death.

1.8 “Survivor” means that person, as between the Husband and the Wife, who is last to die.

1.9 “Wife” means Nancy L. Ward.

1.10 "Wife's Trust" means the Nancy Diemer Trust Dated April 28, 1998, as amended by the First Amendment and Restatement of Trust Agreement of Nancy L. Ward of even date herewith, copies of which are attached hereto as Exhibit 3 and Exhibit 4, respectively.

1.11 “Wife’s Will” means the Last Will and Testament of Nancy L. Ward of even date herewith, a copy of which is attached hereto as Exhibit 5.

II. RECITALS.

2.1 Husband and Wife are now married.

2.2 Husband and Wife each have children from a former marriage.

2.3 Husband and Wife mutually desire for the Survivor to have full use of the Property during his or her life with the Property after the death of the Survivor to be distributed as provided for in the Trust Agreement of Stephen D. Ward (dated as of even date herewith) and the First Amendment and Restatement of Trust Agreement of Nancy L. Ward (dated as of even date herewith).

2.4 Husband and Wife have executed their Wills and Trusts, copies of which have been annexed hereto as Exhibits 1 through 5.

2.5 The Wills and Trusts of the Parties have been made as they are on the condition that the disposition of the Property be made according to their Wills and Trusts, unless this Agreement is altered, amended or revoked as provided for hereinafter.

2.6 This Agreement is made to insure that the mutual plan of the Parties shall not be altered by acts subsequent to date hereof, except as agreed upon between the Parties.

III. ALTERATION, AMENDMENT AND REVOCATION OF WILLS. The Parties mutually covenant with each other and agree that:

3.1 While both Husband and Wife are living, except by amendment, modification or revocation of this Agreement as hereinafter provided, neither he nor she shall in any manner alter, amend or revoke his or her Will or Trust, including amendment by codicil, alteration by defacement, or revocation by destruction.

3.2 Upon the Predecessor's death, this Agreement and the Survivor's Will and Trust shall become irrevocable and the Survivor shall have no right or power to thereafter alter, amend or revoke this Agreement or his or her Will or Trust.

IV. SURVIVOR'S AFFIRMATIVE COVENANTS. The Parties mutually covenant with each other and agree that if he or she is the Survivor of them:

4.1 He or she will take such measures as may be necessary or required to maintain his or her Will and Trust in full force until his or her death and as will maintain title to the Property in a form that shall cause the same, at the Survivor's death, to be disposed of according to the terms and provisions of his or her Will and Trust annexed hereto.

4.2 If he or she remarries after the death of the Predecessor, he or she will:

4.2.1 Thereafter ratify his or her Will and Trust in the form and with the provisions contained in his or her Will and Trust annexed hereto; and

*NW
edw*

4.2.2 As a condition of such re-marriage, require any person he or she remarries to legally and unconditionally waive his or her right to an Elective Share in the Property provided to them under S.C. Code Ann. Section 62-2-201 (1976, as amended from time to time).

V. NEGATIVE COVENANTS. The Parties mutually covenant with each other and agree that if he or she is the survivor of them, he or she will not create, commit, permit, or suffer to exist:

5.1 Any condition that would alter the plan of distribution contained in his or her Will or Trust annexed hereto;

5.2 Any condition that would cause the alteration, amendment or revocation of his or her Will or Trust annexed hereto;

5.3 The dissipation of any of the Property other than through consumption by him or her;

5.4 Any transfer of the Property, or any part thereof from the Survivor to any other person, including any gift to a spouse, child or relative, provided, nothing herein contained shall be construed as prohibiting him or her from making customary and reasonable gifts to a spouse or child;

5.5 Any transfer of title to the Property or any part thereof to the name or joint name of any other person or party;

5.6 Any transfer of title to the Property, or any part thereof, in such manner as would cause the Property to be transmitted upon the Survivor's death, by any means other than through the provisions of his or her Will or Trust annexed hereto; and

5.7 Any investment of the Property or any part thereof, in any form of investment that would or may cause the same to be transmitted upon his or her death through any means other than according to the terms and provisions of his or her Will or Trust annexed hereto.

VI. FORM OF AMENDMENT OR MODIFICATION. The ability of one of the Parties to this Agreement to unilaterally rescind and revoke this Agreement and their Will or Trust by giving notice to the non-revoking person before death as permitted in *Wilson v. Gordon*, 53 S.E. 79 (S.C. 1905), is not a sufficient method to allow the parties to this Agreement to revoke their respective Will or Trust and this Agreement. No agreement between the Parties shall be effective to alter, amend, modify or revoke this Agreement, unless such Agreement is reduced to writing and signed by both Parties.

VII. MISCELLANEOUS.

7.1 Governing Law. This Agreement is made and shall be construed under and in accordance with the laws of the State of South Carolina.

7.2 Non-assignability. This Agreement shall not be assignable and any attempt to assign the same by either party shall be ineffective, null and void.

7.3 Entire Agreement. This Agreement supersedes all prior discussions and agreements between the Parties and contains the sole and entire understanding between them with regard to matters contained herein. All promises, inducements, offers, agreements, commitments and representations heretofore made between such Parties are merged into this Agreement.

7.4 Exhibits. Each and every exhibit referred to or otherwise mentioned in this Agreement is attached to this Agreement and is and shall be construed to be made a part of this Agreement by such reference or other mention at each point at which such reference or other mention occurs, in the same manner and with the same effect as if such exhibit were set forth in full and at length every time it is referred to or otherwise mentioned.

7.5 Captions. All captions, headings, paragraph and subparagraph numbers and letters and other reference numbers or letters are solely for the purpose of facilitating reference to this Agreement and shall not supplement, limit or otherwise vary in any respect the text of this Agreement.

IN WITNESS WHEREOF, we have hereunto set our hands and seals on the day and year first written above.

WITNESSES:

Jeanne A. Pusey

Maddalene G.

S.D. Ward

STEPHEN D. WARD

Nancy L. Ward

NANCY L. WARD

STATE OF SOUTH CAROLINA)

)

COUNTY OF CHARLESTON)

PROBATE

PERSONALLY appeared before me the undersigned and made oath that (s)he saw the within named Stephen D. Ward and Nancy L. Ward, sign, seal and as their act and deed deliver the within written instrument and that (s)he with Jeanne Pusey witnessed the execution thereof.

Maddalene G.

SWORN to before me this 21st day
of April, 2005.

Theresa R. Bluest

Notary Public for South Carolina

My Commission Expires: July 24, 2012

ACKNOWLEDGMENT

1. The foregoing Agreement for Mutual Wills and Trusts was prepared by Brett A. Bluestein, attorney at law.

3. The Trust Agreement of Stephen D. Ward and the First Amendment and Restatement of Trust Agreement of Nancy L. Ward (collectively, the “Trusts”) were prepared by Brett A. Bluestein, attorney at law.

5. The undersigned acknowledge that we have been advised by Brett A. Bluestein, attorney at law, and we understand that he as the drafter of these instruments has a conflict of interest; that our individual and collective interests may be best served by the employment of separate and independent counsel for each of us; we acknowledge the existence of a conflict of interest between us; in spite of the advice and notice of Brett A. Bluestein, attorney at law, we have requested him to prepare the Agreement for Mutual Wills and Trusts, the Wills and the Trusts for us and we, and each of us, do knowingly consent to his drafting, presenting and interpreting the same for and to us; and, each of us do hereby waive and release the said Brett A. Bluestein from any claim we may have because of the drafting of the Agreement for Mutual Wills and Trusts the Wills and the Trusts and presenting the same to us with knowledge that a conflict of interest, actual or potential, legally exists between us.

In the Presence of:


STEPHEN D. WARD

Nancy L. Ward
NANCY/L. WARD

EXHIBIT 1

Trust Agreement of Stephen D. Ward

EXHIBIT 2

Last Will and Testament of Stephen D. Ward

EXHIBIT 3

Nancy Diemer Trust

EXHIBIT 4

First Amendment and Restatement of Trust Agreement of Nancy L. Ward

EXHIBIT 5

Last Will and Testament of Nancy L. Ward

6. Financial Springing Power of Attorney for Stephen D. Ward

REC'D. PAYMENT 4/28/0
PER CLERK
RMC OFFICE SW
CHARLESTON COUNTY, SC

FINANCIAL SPRINGING POWER OF ATTORNEY

State of South Carolina
County of Charleston

Know all men by these presents, that I, **Stephen D. Ward**, the undersigned, of Charleston County, South Carolina, hereby make, constitute and appoint **Nancy L. Ward** (with full power of substitution and revocation) my true and lawful attorney-in-fact for me and in my name, place and stead to do and perform for me anything of any character which I might do or perform if I were personally present and acting. If **Nancy L. Ward** shall be unable or unwilling or unavailable to serve or continue to serve, then I appoint **Dudley M. Ward**, as an alternate agent to serve with the same powers and discretions. Such attorney-in-fact only has the authority to act on my behalf in the event that I am adjudicated to be incompetent or in the event that I am not adjudicated incompetent, but by reason of illness or mental or physical disability in the opinion of two licensed physicians I am unable to properly handle my own affairs, then and in that event my attorney-in-fact shall immediately be authorized to act on my behalf pursuant to this Financial Power of Attorney. Without in any way diminishing the broad general power just conferred, which is believed and intended to include all of the following, as well as other powers not mentioned, I specifically grant my attorney-in-fact the following powers:

1. REAL AND PERSONAL PROPERTY TRANSACTIONS. To lease, purchase, option, exchange and acquire; to agree, bargain and contract for the lease, purchase, option, exchange and acquisition of; to accept, take, receive, collect, hold and possess any interest in real or personal property whatsoever, tangible or intangible, including any bond (registered or unregistered or eligible for redemption at par in payment of federal estate tax), stock certificate, share, instrument of similar character, commodity interest or any instrument with respect thereto, together with the interest, dividends, proceeds or other distributions connected therewith, on such terms and conditions, and under such covenants, as said attorney-in-fact shall deem proper; and to maintain, repair, improve, manage, operate, conserve, insure, rent, sell, dispose of, convey, subject to liens, mortgage, subject to deeds of trust and in any way or manner deal with all or any part of any interest in such property, under such terms and conditions and under such covenants, as said attorney-in-fact shall deem proper.
2. BOND, SHARE AND COMMODITY TRANSACTIONS. To request, ask, demand, sue for, recover, collect, receive, and hold and possess any bond, share, instrument of similar character, commodity interest or any instrument with respect thereto together with the interest, dividends, proceeds, or other distributions connected therewith, as now are, or shall hereafter become, owned by, or due, owing payable, or belonging to, the principal at the time of execution or in which the principal may thereafter acquire interest, to have, use, and take all lawful means and equitable and legal remedies, procedures, and writs in the name of the principal for the collection and recovery thereof, and to adjust, sell, compromise, and agree for the same, find to make,

execute, and deliver for the principal, all endorsements, acquittances, releases, receipts, or other sufficient discharges for the same.

3. **BANKING TRANSACTIONS.** To make, receive, sign, endorse, execute, acknowledge, deliver, and possess checks, drafts, bills of exchange, letters of credit, notes, stock certificates, withdrawal receipts and deposit instruments relating to accounts or deposits in, or certificates of deposit of, banks, savings and loan or other institutions or associations for the principal.
4. **BUSINESS OPERATING TRANSACTIONS.** To conduct, engage in, and transact any and all lawful business of whatever nature or kind for the principal.
5. **DEMAND AND RECEIVE OR RECOVER.** To request, ask, demand, sue for, recover, collect, receive, and hold and possess all legacies, bequests, devises, as are, owned by, or due, owing, payable, or belonging to, the principal at the time of execution or in which the principal may thereafter acquire interest, to have, use, and take all lawful means and equitable and legal remedies, procedures, and writs in the name of the principal for the collection and recovery thereof, and to adjust, sell, compromise, and agree for the same, and to make, execute, and deliver for the principal, all endorsements, acquittances, releases, receipts, or other sufficient discharges for the same.
6. **PERSONAL RELATIONSHIPS AND AFFAIRS.** To do all acts necessary for maintaining the customary standard of living of the principal, the spouse and children, and other dependents of the principal; to provide medical, dental and surgical care, hospitalization and custodial care for the principal, the spouse, and children, and other dependents of the principal; to continue whatever provision has been made by the principal, for the principal, the spouse, and children, and other dependents of the principal, with respect to automobiles, or other means of transportation; to continue whatever charge accounts have been operated by the principal, for the convenience of the principal, the spouse, and children, and other dependents, of the principal, to open such new accounts as the attorney-in-fact shall think to be desirable for the accomplishment of any of the purposes enumerated in this section, and to pay the items charged on such accounts by any person authorized or permitted by the principal or the attorney-in-fact to make such charges; to continue the discharge of any services or duties assumed by the principal, to any parent, relative or friend of the principal; to continue payments incidental to the membership or affiliation of the principal in any church, club, society, order or other organization, or to continue contributions thereto.
7. **SOCIAL SECURITY AND UNEMPLOYMENT.** To prepare, execute, acknowledge upon oath and file all social security, unemployment insurance and information returns required by the laws of the United States, of any state or subdivision thereof, or of any foreign government. To claim and collect for my benefit from any governmental agency or body, such benefits as Supplemental Social Security (SSI), Medicaid, Medicare, and Social Security Disability Insurance (SSDI) and, for the purposes of

receiving social security benefits, my Agent is herewith appointed my "Representative Payee"; to utilize all lawful means and methods to recover such assets and/or rights, qualify me for such benefits and claim such benefits on my behalf and to compromise claims and grant discharges in regard to the matters described herein; to utilize all lawful means and methods to recover such assets and/or rights; to qualify me for such benefits and claim such benefits on my behalf, including but not limited to converting my assets into assets that do not disqualify me from receiving such benefits or divesting me of such assets. To prepare, execute, acknowledge upon oath and file all other papers and instruments which my attorney-in-fact determines to be desirable or necessary to safeguard me against excess or illegal penalties imposed for claimed violation of any law or other governmental regulation.

8. **BENEFITS FROM MILITARY SERVICE.** To execute vouchers in the name of the principal for any and all allowances and reimbursements payable by the United States, or subdivision thereof, to the principal, arising from or based upon military service and to receive, to endorse and to collect the proceeds of any check payable to the order of the principal drawn on the treasurer or other fiscal officer or depository of the United States or subdivision thereof, to take possession and to order the removal and shipment, of any property of the principal from any post, warehouse, depot, dock or other place of storage or safekeeping, either governmental or private, to execute and to deliver any release, voucher, receipt, bill of lading, shipping ticket, certificate or other instrument which the agent shall think to be desirable or necessary for such purpose; to prepare, to file and to prosecute the claim of the principal to any benefit or assistance, financial or otherwise, to which the principal is, or claims to be, entitled, under the provisions of any statute or regulation existing at the creation of the agency or thereafter enacted by the United States or any state or by any subdivision thereof, or by any foreign government, which benefit or assistance arises from or is based upon military service performed prior to or after execution.
9. **TAX.** To prepare, execute, verify and file in the name of the principal and on behalf of the principal any and all types of tax returns, amended returns, declaration of estimated tax, report, protest, application for correction of assessed valuation of real or other property, appeal, brief, claim for refund, or petition, including petition to the Tax Court of the United States, in connection with any tax imposed or proposed to be imposed by any government, or claimed, levied or assessed by any government, and to pay any such tax and to obtain any extension of time for any of the foregoing; to execute waivers or consents agreeing to a later determination and assessment of taxes than is provided by any statute of limitations; to execute waivers of restriction on the assessment and collection of deficiency in any tax; to execute closing agreements and all other documents, instruments and papers relating to any tax liability of any sort; to institute and carry on through counsel any proceeding in connection with determining or contesting any such tax or to recover any tax paid or to resist any claim for additional tax on any proposed assessment or levy thereof; and to enter into any agreements or stipulations for compromise or other

adjustments or disposition of any tax, to represent me personally, or through attorneys of my attorney-in-fact's selection, with respect to any matter before the Internal Revenue Service and department of revenue of any state or any court relative to taxes owed, allegedly owed or paid by me or on my behalf; and to pay, compromise, contest or apply for refunds in connection with any taxes or assessments for which I am or may be liable, and on my behalf to execute IRS Form 2848 and appoint my Agent or any suitable person selected by my Agent as my representative before the Internal Revenue Service.

10. EMPLOYMENT OF AGENTS. To employ agents such as legal counsel, accountants or other professional representation as may be appropriate and to grant such agents such powers of attorney or other appropriate authorization as may be required in connection with such representation or by the Internal Revenue Service or other governmental authority.
11. SAFE DEPOSITS. To have free access at any time to any safe deposit box or vault which I have leased in my name, wherever the same may be located, and to place property in and remove property from same.
12. INSURANCE TRANSACTIONS. To exercise or perform any act, power, duty, right or obligation in regard to any contract of life, accident, health, disability, liability, personal property or automobile insurance or any combination of such insurance procured by me; to procure new, different or additional contracts of such insurance for me and to designate the beneficiary of any such contract of insurance; and to purchase, apply for and make affidavits with respect to any lost original securities bond (or similar coverage) required as a condition precedent to the issuance of replacement securities.
13. ESTATE TRANSACTIONS. To receive, hold and possess all legacies, bequests and devises as are owned by or due, owing, payable or belonging to me.
14. LEGAL AUTHORITY. To request, ask, demand, sue for, recover, collect and to have, use and take all lawful means and equitable and legal remedies, procedures and writs in my name for the collection and recovery of any property, interest in property and any rights of mine, including all sums of money, debts, dues, accounts, insurance proceeds, legacies, devises, bequests, interest, dividends, annuities and any other interests as are owned by or due, owing, payable or belonging to me (whether such sums are due me from the government of the United States or any subdivision thereof); to adjust, sell, compromise, arbitrate or otherwise agree for me respecting the same; to make, execute and deliver for me all endorsements, acquittances, releases, receipts or other sufficient discharges for the same; and to make oaths, acknowledgments and verifications in my name.
15. DEBTS. To pay, adjust and settle any legitimate and just claims or debts which may be due and owing by me at any time; and to credit payment of or cancel any note, mortgage, deed of trust, or other obligation to me upon proper payment being made,

whether in full or by way of compromise or settlement, on evidence thereof satisfactory to my attorney-in-fact being furnished.

16. **BORROWING.** To borrow on my behalf and in my name such funds as my attorney-in-fact deems advisable; to give notes or other evidence of debt therefor at such rate or rates of interest as my attorney-in-fact deems advisable; and to pledge, mortgage or otherwise encumber as security therefor any property of any kind, real, personal or mixed, owned by me, as my attorney-in-fact may, in said attorney-in-fact's discretion, select.
17. **NOMINEE NAME.** To effect all transactions in the name of my attorney-in-fact as attorney-in-fact, in my name or in the name of any nominee of my said attorney-in-fact.
18. **INVEST AND REINVEST.** To invest and reinvest without restriction any of my money or other property of whatever kind coming into my attorney-in-fact's possession or known to belong to me, whether income or principal, in such manner as said attorney-in-fact may deem fit and proper and to execute any instruments necessary to accomplish these purposes. I hereby authorize said attorney-in-fact to retain any property owned by me without regard to any requirement of diversification otherwise imposed by law or government regulation and without liability for any loss or decrease in the value of any such property while retained by her and to exercise by proxy or otherwise any voting rights I may have in shares of stock.
19. **MAKE GIFTS.** To make gifts to such persons or institutions, in such amounts or proportions, in the sole discretion as my said attorney-in-fact may deem appropriate; provided, however, the total value of gifts to any one donee in any calendar year shall not exceed the amount specified for the federal gift tax annual exclusion (including such additional amount of any gift tax annual exclusion attributable to the consent of my spouse under Section 2513 of the Internal Revenue Code).

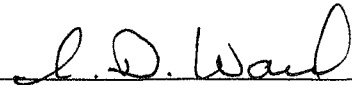
The powers herein granted shall be deemed continuing and relate as fully to any property which I may hereafter acquire as to any property which I may now own and may be exercised repeatedly. In the event my attorney-in-fact will occupy, from a legal standpoint, positions in which a conflict of interest is either real or apparent, I hereby declare that the existence of any conflict of whatever nature or however arising shall not in any manner limit any of the powers herein conferred upon my attorney-in-fact, which may perform any act my attorney-in-fact is authorized to perform hereunder notwithstanding any such conflict of interest.

I hereby ratify and confirm all that which my attorney-in-fact shall lawfully do or cause to be done by such attorney-in-fact by virtue of the powers herein conferred upon such attorney-in-fact, and I direct that during my lifetime my attorney-in-fact shall not be required to make or give any inventories, appraisals, accounts or reports to any court or to give bond, but shall keep full and accurate records of all transactions for me as my attorney-in-fact and of all my property and the disposition thereof, and shall render to me, if competent, or to my spouse or oldest adult child or nearest living relative, if I shall be incompetent or incapacitated, at least annually, inventories and

accounts of all such transactions. At my death an inventory and a final account of all such transactions shall be delivered to the personal representative of my estate, together with all property of mine included in such final inventory.

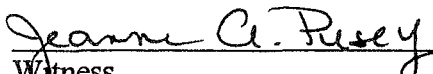
This power of attorney shall not be affected by physical disability or mental incompetence of the principal which renders principal incapable of managing principal's own estate.

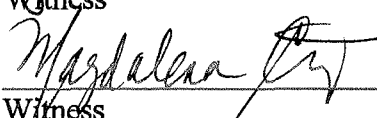
IN WITNESS WHEREOF, I have executed this Durable Power of Attorney this 21st day of April, 2005.


_____(SEAL)
Stephen D. Ward, Principal

ATTESTATION

The foregoing durable power of attorney was this 21st day of April, 2005, signed, sealed, published and declared by the Principal as the Principal's appointment and empowerment of an attorney-in-fact, in the presence of us who at the Principal's request and in the Principal's presence and in the presence of each other, have hereunto subscribed our names as witnesses hereto.



Witness


Witness

ACKNOWLEDGMENT

Subscribed to and sworn before me this 21st day of April, 2005.

My Commission expires: July 24, 2012

7. Financial Springing Power of Attorney for Nancy L. Ward

FINANCIAL SPRINGING POWER OF ATTORNEY

State of South Carolina
County of Charleston

Know all men by these presents, that I, **Nancy L. Ward**, the undersigned, of Charleston County, South Carolina, hereby make, constitute and appoint **Stephen D. Ward** (with full power of substitution and revocation) my true and lawful attorney-in-fact for me and in my name, place and stead to do and perform for me anything of any character which I might do or perform if I were personally present and acting. If **Stephen D. Ward** shall be unable or unwilling or unavailable to serve or continue to serve, then I appoint **Robert A. Goelkel**, as an alternate agent to serve with the same powers and discretions. Such attorney-in-fact only has the authority to act on my behalf in the event that I am adjudicated to be incompetent or in the event that I am not adjudicated incompetent, but by reason of illness or mental or physical disability in the opinion of two licensed physicians I am unable to properly handle my own affairs, then and in that event my attorney-in-fact shall immediately be authorized to act on my behalf pursuant to this Financial Power of Attorney. Without in any way diminishing the broad general power just conferred, which is believed and intended to include all of the following, as well as other powers not mentioned, I specifically grant my attorney-in-fact the following powers:

1. REAL AND PERSONAL PROPERTY TRANSACTIONS. To lease, purchase, option, exchange and acquire; to agree, bargain and contract for the lease, purchase, option, exchange and acquisition of; to accept, take, receive, collect, hold and possess any interest in real or personal property whatsoever, tangible or intangible, including any bond (registered or unregistered or eligible for redemption at par in payment of federal estate tax), stock certificate, share, instrument of similar character, commodity interest or any instrument with respect thereto, together with the interest, dividends, proceeds or other distributions connected therewith, on such terms and conditions, and under such covenants, as said attorney-in-fact shall deem proper; and to maintain, repair, improve, manage, operate, conserve, insure, rent, sell, dispose of, convey, subject to liens, mortgage, subject to deeds of trust and in any way or manner deal with all or any part of any interest in such property, under such terms and conditions and under such covenants, as said attorney-in-fact shall deem proper.
2. BOND, SHARE AND COMMODITY TRANSACTIONS. To request, ask, demand, sue for, recover, collect, receive, and hold and possess any bond, share, instrument of similar character, commodity interest or any instrument with respect thereto together with the interest, dividends, proceeds, or other distributions connected therewith, as now are, or shall hereafter become, owned by, or due, owing payable, or belonging to, the principal at the time of execution or in which the principal may thereafter acquire interest, to have, use, and take all lawful means and equitable and legal remedies, procedures, and writs in the name of the principal for the collection and recovery thereof, and to adjust, sell, compromise, and agree for the same, find to make,

execute, and deliver for the principal, all endorsements, acquittances, releases, receipts, or other sufficient discharges for the same.

3. **BANKING TRANSACTIONS.** To make, receive, sign, endorse, execute, acknowledge, deliver, and possess checks, drafts, bills of exchange, letters of credit, notes, stock certificates, withdrawal receipts and deposit instruments relating to accounts or deposits in, or certificates of deposit of, banks, savings and loan or other institutions or associations for the principal.
4. **BUSINESS OPERATING TRANSACTIONS.** To conduct, engage in, and transact any and all lawful business of whatever nature or kind for the principal.
5. **DEMAND AND RECEIVE OR RECOVER.** To request, ask, demand, sue for, recover, collect, receive, and hold and possess all legacies, bequests, devises, as are, owned by, or due, owing, payable, or belonging to, the principal at the time of execution or in which the principal may thereafter acquire interest, to have, use, and take all lawful means and equitable and legal remedies, procedures, and writs in the name of the principal for the collection and recovery thereof, and to adjust, sell, compromise, and agree for the same, and to make, execute, and deliver for the principal, all endorsements, acquittances, releases, receipts, or other sufficient discharges for the same.
6. **PERSONAL RELATIONSHIPS AND AFFAIRS.** To do all acts necessary for maintaining the customary standard of living of the principal, the spouse and children, and other dependents of the principal; to provide medical, dental and surgical care, hospitalization and custodial care for the principal, the spouse, and children, and other dependents of the principal; to continue whatever provision has been made by the principal, for the principal, the spouse, and children, and other dependents of the principal, with respect to automobiles, or other means of transportation; to continue whatever charge accounts have been operated by the principal, for the convenience of the principal, the spouse, and children, and other dependents, of the principal, to open such new accounts as the attorney-in-fact shall think to be desirable for the accomplishment of any of the purposes enumerated in this section, and to pay the items charged on such accounts by any person authorized or permitted by the principal or the attorney-in-fact to make such charges; to continue the discharge of any services or duties assumed by the principal, to any parent, relative or friend of the principal; to continue payments incidental to the membership or affiliation of the principal in any church, club, society, order or other organization, or to continue contributions thereto.
7. **SOCIAL SECURITY AND UNEMPLOYMENT.** To prepare, execute, acknowledge upon oath and file all social security, unemployment insurance and information returns required by the laws of the United States, of any state or subdivision thereof, or of any foreign government. To claim and collect for my benefit from any governmental agency or body, such benefits as Supplemental Social Security (SSI), Medicaid, Medicare, and Social Security Disability Insurance (SSDI) and, for the purposes of

NW

receiving social security benefits, my Agent is herewith appointed my "Representative Payee"; to utilize all lawful means and methods to recover such assets and/or rights, qualify me for such benefits and claim such benefits on my behalf and to compromise claims and grant discharges in regard to the matters described herein; to utilize all lawful means and methods to recover such assets and/or rights; to qualify me for such benefits and claim such benefits on my behalf, including but not limited to converting my assets into assets that do not disqualify me from receiving such benefits or divesting me of such assets. To prepare, execute, acknowledge upon oath and file all other papers and instruments which my attorney-in-fact determines to be desirable or necessary to safeguard me against excess or illegal penalties imposed for claimed violation of any law or other governmental regulation.

8. BENEFITS FROM MILITARY SERVICE. To execute vouchers in the name of the principal for any and all allowances and reimbursements payable by the United States, or subdivision thereof, to the principal, arising from or based upon military service and to receive, to endorse and to collect the proceeds of any check payable to the order of the principal drawn on the treasurer or other fiscal officer or depository of the United States or subdivision thereof, to take possession and to order the removal and shipment, of any property of the principal from any post, warehouse, depot, dock or other place of storage or safekeeping, either governmental or private, to execute and to deliver any release, voucher, receipt, bill of lading, shipping ticket, certificate or other instrument which the agent shall think to be desirable or necessary for such purpose; to prepare, to file and to prosecute the claim of the principal to any benefit or assistance, financial or otherwise, to which the principal is, or claims to be, entitled, under the provisions of any statute or regulation existing at the creation of the agency or thereafter enacted by the United States or any state or by any subdivision thereof, or by any foreign government, which benefit or assistance arises from or is based upon military service performed prior to or after execution.
9. TAX. To prepare, execute, verify and file in the name of the principal and on behalf of the principal any and all types of tax returns, amended returns, declaration of estimated tax, report, protest, application for correction of assessed valuation of real or other property, appeal, brief, claim for refund, or petition, including petition to the Tax Court of the United States, in connection with any tax imposed or proposed to be imposed by any government, or claimed, levied or assessed by any government, and to pay any such tax and to obtain any extension of time for any of the foregoing; to execute waivers or consents agreeing to a later determination and assessment of taxes than is provided by any statute of limitations; to execute waivers of restriction on the assessment and collection of deficiency in any tax; to execute closing agreements and all other documents, instruments and papers relating to any tax liability of any sort; to institute and carry on through counsel any proceeding in connection with determining or contesting any such tax or to recover any tax paid or to resist any claim for additional tax on any proposed assessment or levy thereof; and to enter into any agreements or stipulations for compromise or other

W

adjustments or disposition of any tax, to represent me personally, or through attorneys of my attorney-in-fact's selection, with respect to any matter before the Internal Revenue Service and department of revenue of any state or any court relative to taxes owed, allegedly owed or paid by me or on my behalf; and to pay, compromise, contest or apply for refunds in connection with any taxes or assessments for which I am or may be liable, and on my behalf to execute IRS Form 2848 and appoint my Agent or any suitable person selected by my Agent as my representative before the Internal Revenue Service.

10. EMPLOYMENT OF AGENTS. To employ agents such as legal counsel, accountants or other professional representation as may be appropriate and to grant such agents such powers of attorney or other appropriate authorization as may be required in connection with such representation or by the Internal Revenue Service or other governmental authority.
11. SAFE DEPOSITS. To have free access at any time to any safe deposit box or vault which I have leased in my name, wherever the same may be located, and to place property in and remove property from same.
12. INSURANCE TRANSACTIONS. To exercise or perform any act, power, duty, right or obligation in regard to any contract of life, accident, health, disability, liability, personal property or automobile insurance or any combination of such insurance procured by me; to procure new, different or additional contracts of such insurance for me and to designate the beneficiary of any such contract of insurance; and to purchase, apply for and make affidavits with respect to any lost original securities bond (or similar coverage) required as a condition precedent to the issuance of replacement securities.
13. ESTATE TRANSACTIONS. To receive, hold and possess all legacies, bequests and devises as are owned by or due, owing, payable or belonging to me.
14. LEGAL AUTHORITY. To request, ask, demand, sue for, recover, collect and to have, use and take all lawful means and equitable and legal remedies, procedures and writs in my name for the collection and recovery of any property, interest in property and any rights of mine, including all sums of money, debts, dues, accounts, insurance proceeds, legacies, devises, bequests, interest, dividends, annuities and any other interests as are owned by or due, owing, payable or belonging to me (whether such sums are due me from the government of the United States or any subdivision thereof); to adjust, sell, compromise, arbitrate or otherwise agree for me respecting the same; to make, execute and deliver for me all endorsements, acquittances, releases, receipts or other sufficient discharges for the same; and to make oaths, acknowledgments and verifications in my name.
15. DEBTS. To pay, adjust and settle any legitimate and just claims or debts which may be due and owing by me at any time; and to credit payment of or cancel any note, mortgage, deed of trust, or other obligation to me upon proper payment being made,

NW

whether in full or by way of compromise or settlement, on evidence thereof satisfactory to my attorney-in-fact being furnished.

16. BORROWING. To borrow on my behalf and in my name such funds as my attorney-in-fact deems advisable; to give notes or other evidence of debt therefor at such rate or rates of interest as my attorney-in-fact deems advisable; and to pledge, mortgage or otherwise encumber as security therefor any property of any kind, real, personal or mixed, owned by me, as my attorney-in-fact may, in said attorney-in-fact's discretion, select.
17. NOMINEE NAME. To effect all transactions in the name of my attorney-in-fact as attorney-in-fact, in my name or in the name of any nominee of my said attorney-in-fact.
18. INVEST AND REINVEST. To invest and reinvest without restriction any of my money or other property of whatever kind coming into my attorney-in-fact's possession or known to belong to me, whether income or principal, in such manner as said attorney-in-fact may deem fit and proper and to execute any instruments necessary to accomplish these purposes. I hereby authorize said attorney-in-fact to retain any property owned by me without regard to any requirement of diversification otherwise imposed by law or government regulation and without liability for any loss or decrease in the value of any such property while retained by her and to exercise by proxy or otherwise any voting rights I may have in shares of stock.
19. MAKE GIFTS. To make gifts to such persons or institutions, in such amounts or proportions, in the sole discretion as my said attorney-in-fact may deem appropriate; provided, however, the total value of gifts to any one donee in any calendar year shall not exceed the amount specified for the federal gift tax annual exclusion (including such additional amount of any gift tax annual exclusion attributable to the consent of my spouse under Section 2513 of the Internal Revenue Code).

The powers herein granted shall be deemed continuing and relate as fully to any property which I may hereafter acquire as to any property which I may now own and may be exercised repeatedly. In the event my attorney-in-fact will occupy, from a legal standpoint, positions in which a conflict of interest is either real or apparent, I hereby declare that the existence of any conflict of whatever nature or however arising shall not in any manner limit any of the powers herein conferred upon my attorney-in-fact, which may perform any act my attorney-in-fact is authorized to perform hereunder notwithstanding any such conflict of interest.

I hereby ratify and confirm all that which my attorney-in-fact shall lawfully do or cause to be done by such attorney-in-fact by virtue of the powers herein conferred upon such attorney-in-fact, and I direct that during my lifetime my attorney-in-fact shall not be required to make or give any inventories, appraisals, accounts or reports to any court or to give bond, but shall keep full and accurate records of all transactions for me as my attorney-in-fact and of all my property and the disposition thereof, and shall render to me, if competent, or to my spouse or oldest adult child or nearest living relative, if I shall be incompetent or incapacitated, at least annually, inventories and

NW

accounts of all such transactions. At my death an inventory and a final account of all such transactions shall be delivered to the personal representative of my estate, together with all property of mine included in such final inventory.

This power of attorney shall not be affected by physical disability or mental incompetence of the principal which renders principal incapable of managing principal's own estate.

IN WITNESS WHEREOF, I have executed this Durable Power of Attorney this 21st day of April, 2005.

Nancy L. Ward (SEAL)
Nancy L. Ward, Principal

ATTESTATION

The foregoing durable power of attorney was this 21st day of April, 2005, signed, sealed, published and declared by the Principal as the Principal's appointment and empowerment of an attorney-in-fact, in the presence of us who at the Principal's request and in the Principal's presence and in the presence of each other, have hereunto subscribed our names as witnesses hereto.

Jane A. Pusey
Witness
Magdalena Cruz
Witness

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON) ACKNOWLEDGMENT

I, Brett A. Blueskin, a Notary Public for the State of South Carolina, do hereby certify that **Nancy L. Ward** personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Subscribed to and sworn before me this 21st day of April, 2005.



Notary Public, State of South Carolina

My Commission expires: July 24, 2012

8. Health Care Power of Attorney Stephen D. Ward

HEALTH CARE POWER OF ATTORNEY
(South Carolina Statutory Form, Code of Laws, Section 62-5-504)

1. DESIGNATION OF HEALTH CARE AGENT

I, **Stephen D. Ward**, hereby appoint:

Nancy L. Ward
2412 High Hammock Road
Seabrook Island, SC 29455
Home Telephone: 843-768-4511

as my agent to make health care decisions for me as authorized in this document.

2. EFFECTIVE DATE AND DURABILITY

By this document I intend to create a durable power of attorney effective upon, and only during, any period of mental incompetence.

3. AGENT'S POWERS

I grant to my agent full authority to make decisions for me regarding my health care. In exercising this authority, my agent shall follow my desires as stated in this document or otherwise expressed by me or known to my agent. In making any decision, my agent shall attempt to discuss the proposed decision with me to determine my desires if I am able to communicate in any way. If my agent cannot determine the choice I would want made, then my Agent shall make a choice for me based upon what my agent believes to be in my best interests. My agent's authority to interpret my desire is intended to be as broad as possible, except for any limitations I may state below.

Accordingly, unless specifically limited by Section E, below, my agent is authorized as follows:

- A. To consent to, refuse, or withdraw consent from any and all types of medical care, treatment, surgical procedures, diagnostic procedures, medication, and the use of mechanical or other procedures that affect any bodily function, including, but not limited to, artificial respiration, nutritional support and hydration, and cardiopulmonary resuscitation;
- B. To authorize, or refuse to authorize, any medication or procedure intended to relieve pain, even though such use may lead to physical damage, addiction, or hasten the moment of, but not intentionally cause, my death;

- C. To authorize my admission to or discharge from, even against medical advice, any hospital, nursing care facility, or similar facility or service; and
- D. To take any other action necessary to making, documenting, and assuring implementation of decisions concerning my health care, including, but not limited to, granting any waiver or release from liability required by any hospital, physician, nursing care provider, or other health care provider; signing any documents relating to refusals of treatment or the leaving of a facility against medical advice, and pursuing any legal action in my name, and at the expense of my estate to force compliance with my wishes as determined by my agent, or to seek actual or punitive damages for the failure to comply.
- E. The powers granted above do not include the following powers, or are subject to the following rules or limitations:

4. ORGAN DONATION (INITIAL ONLY ONE):

My Agent may initials, may not _____ consent to the donation of all or any of my tissue or organs for purposes of transplantation.

5. EFFECT ON DECLARATION OF A DESIRE FOR A NATURAL DEATH (LIVING WILL):

I understand that if I have a valid Declaration of a Desire for a Natural Death, the instructions contained in the Declaration will be given effect in any situation to which they are applicable. My agent will have authority to make decisions concerning my health care only in situations to which the Declaration does not apply.

6. STATEMENT OF DESIRES AND SPECIAL PROVISIONS:

With respect to any Life-Sustaining Treatment, I direct the following (INITIAL ONLY ONE OF THE FOLLOWING FOUR (4) PARAGRAPHS):

(1) _____ GRANT OF DISCRETION TO AGENT. I do not want my life to be prolonged nor do I want life-sustaining treatment to be provided or continued if my agent believes the burdens of the treatment outweigh the expected benefits. I want my agent to consider the relief of suffering, my personal beliefs, the expense involved and the quality as well as the possible extension of my life in making decisions concerning life-sustaining treatment.

OR

(2) Jew DIRECTIVE TO WITHHOLD OR WITHDRAW TREATMENT. I do not want my life to be prolonged and I do not want life-sustaining treatment:

- a. if I have a condition that is incurable or irreversible and, without the administration of life-sustaining procedures, expected to result in death within a relatively short period of time; or
- b. if I am in a state of permanent unconsciousness.

OR

(3) _____ DIRECTIVE FOR MAXIMUM TREATMENT. I want my life to be prolonged to the greatest extent possible, within the standards of accepted medical practice, without regard to my condition, the chances I have for recovery, or the cost of the procedures.

OR

(4) _____ DIRECTIVE IN MY OWN WORDS:

7. STATEMENT OF DESIRES REGARDING TUBE FEEDING:

With respect to Nutrition and Hydration provided by means of a nasogastric tube or tube into the stomach, intestines or veins, I wish to make clear that (INITIAL ONLY ONE):

Jew I DO NOT want to receive these forms of artificial nutrition and hydration, and they may be withheld or withdrawn under the conditions given above.

OR

_____ I DO want to receive these forms of artificial nutrition and hydration.

IF YOU DO NOT INITIAL EITHER OF THE ABOVE STATEMENTS, YOUR AGENT WILL NOT HAVE AUTHORITY TO DIRECT THAT NUTRITION AND HYDRATION NECESSARY FOR COMFORT CARE OR ALLEVIATION OF PAIN BE WITHDRAWN.

8. SUCCESSORS:

If an agent named by me dies, becomes legally disabled, resigns, refuses to act, becomes unavailable, or if an agent who is my spouse is divorced or separated from me, I name the following as successors to my agent, each to act alone and successively, in the order named:

A. First Alternate Agent:

Name: Dudley M. Ward
Address: 185 Hungerford Road
Briar Cliff Maynor, NY 10510
Telephone: (914) 944-3213

B. Second Alternate Agent:

Name: _____
Address: _____
Telephone: _____

9. ADMINISTRATIVE PROVISIONS:

- a. I revoke any prior Health Care Power of Attorney and any provisions relating to health care of any other prior power of attorney.
- b. This Power of Attorney is intended to be valid in any jurisdiction in which it is presented.

10. UNAVAILABILITY OF AGENT:

If at any relevant time, the Agent or Successor Agents named herein are unable or unwilling to make decisions concerning my health care, and those decisions are to be made by a guardian, by the Probate Court, or by a surrogate pursuant to the Adult Health Care Consent Act, it is my intention that the guardian, Probate Court, or surrogate make those decisions in accordance with my directions as stated in this document.

BY SIGNING HERE, I INDICATE THAT I UNDERSTAND THE CONTENTS OF THIS DOCUMENT AND THE EFFECT OF THIS GRANT OF POWERS TO MY AGENT.

I sign my name to this Health Care Power of Attorney on this 21st day of April, 2005. My current home address is:

2412 High Hammock Road
Seabrook Island, SC 29455

Signature: Stephen D. Ward
Print Name: Stephen D Ward

(Witness Statement, Over)

WITNESS STATEMENT

I declare, on the basis of information and belief, that the person who signed or acknowledged this document (the principal) is personally known to me, that he/she signed or acknowledged this Health Care Power of Attorney in my presence, and that he/she appears to be of sound mind and under no duress, fraud, or undue influence.

I am not related to the principal by blood, marriage or adoption, either as a spouse, a lineal ancestor, descendant of the parents of the principal, or spouse of any of them. I am not directly financially responsible for the principal's medical care. I am not entitled to any portion of the principal's estate upon his/her decease, whether under any will or as an heir by intestate succession, nor am I the beneficiary of an insurance policy on the principal's life, nor do I have a claim against the principal's estate as of this time. I am not the principal's attending physician, nor an employee of the attending physician. No more than one witness is an employee of a health facility in which the principal is a patient. I am not appointed as the Health Care Agent or Successor Health Care Agent by this document.

WITNESS NO. 1:

Jeanne A. Pusey
Signature

Date: 4/21/05

Jeanne A. Pusey
Print Name

Telephone: 843-723-7831

1345 S. Barksdale
Residence Address
mt. Pleasant, SC 29404

WITNESS NO. 2

Magdalena Cruz
Signature

Date: 4-21-05

MAGDALENA CRUZ
Print Name

Telephone: 4860077

325 Marymeade Drive
Residence Address
Summerville, SC 29483

9. Health Care Power of Attorney Nancy L. Ward

HEALTH CARE POWER OF ATTORNEY
(South Carolina Statutory Form, Code of Laws, Section 62-5-504)

1. DESIGNATION OF HEALTH CARE AGENT

I, **Nancy L. Ward**, hereby appoint:

Stephen D. Ward
2412 High Hammock Road
Seabrook Island, SC 29455
Home Telephone: 843-768-4511

as my agent to make health care decisions for me as authorized in this document.

2. EFFECTIVE DATE AND DURABILITY

By this document I intend to create a durable power of attorney effective upon, and only during, any period of mental incompetence.

3. AGENT'S POWERS

I grant to my agent full authority to make decisions for me regarding my health care. In exercising this authority, my agent shall follow my desires as stated in this document or otherwise expressed by me or known to my agent. In making any decision, my agent shall attempt to discuss the proposed decision with me to determine my desires if I am able to communicate in any way. If my agent cannot determine the choice I would want made, then my Agent shall make a choice for me based upon what my agent believes to be in my best interests. My agent's authority to interpret my desire is intended to be as broad as possible, except for any limitations I may state below.

Accordingly, unless specifically limited by Section E, below, my agent is authorized as follows:

- A. To consent to, refuse, or withdraw consent from any and all types of medical care, treatment, surgical procedures, diagnostic procedures, medication, and the use of mechanical or other procedures that affect any bodily function, including, but not limited to, artificial respiration, nutritional support and hydration, and cardiopulmonary resuscitation;
- B. To authorize, or refuse to authorize, any medication or procedure intended to relieve pain, even though such use may lead to physical damage, addiction, or hasten the moment of, but not intentionally cause, my death;

- C. To authorize my admission to or discharge from, even against medical advice, any hospital, nursing care facility, or similar facility or service; and
- D. To take any other action necessary to making, documenting, and assuring implementation of decisions concerning my health care, including, but not limited to, granting any waiver or release from liability required by any hospital, physician, nursing care provider, or other health care provider; signing any documents relating to refusals of treatment or the leaving of a facility against medical advice, and pursuing any legal action in my name, and at the expense of my estate to force compliance with my wishes as determined by my agent, or to seek actual or punitive damages for the failure to comply.
- E. The powers granted above do not include the following powers, or are subject to the following rules or limitations:

4. ORGAN DONATION (INITIAL ONLY ONE):

My Agent may YU; may not _____ consent to the donation of all or any of my tissue or organs for purposes of transplantation.

5. EFFECT ON DECLARATION OF A DESIRE FOR A NATURAL DEATH (LIVING WILL):

I understand that if I have a valid Declaration of a Desire for a Natural Death, the instructions contained in the Declaration will be given effect in any situation to which they are applicable. My agent will have authority to make decisions concerning my health care only in situations to which the Declaration does not apply.

6. STATEMENT OF DESIRES AND SPECIAL PROVISIONS:

With respect to any Life-Sustaining Treatment, I direct the following (INITIAL ONLY ONE OF THE FOLLOWING FOUR (4) PARAGRAPHS):

(1) _____ GRANT OF DISCRETION TO AGENT. I do not want my life to be prolonged nor do I want life-sustaining treatment to be provided or continued if my agent believes the burdens of the treatment outweigh the expected benefits. I want my agent to consider the relief of suffering, my personal beliefs, the expense involved and the quality as well as the possible extension of my life in making decisions concerning life-sustaining treatment.

OR

(2) NW DIRECTIVE TO WITHHOLD OR WITHDRAW TREATMENT. I do not want my life to be prolonged and I do not want life-sustaining treatment:

- a. if I have a condition that is incurable or irreversible and, without the administration of life-sustaining procedures, expected to result in death within a relatively short period of time; or
- b. if I am in a state of permanent unconsciousness.

OR

(3) _____ DIRECTIVE FOR MAXIMUM TREATMENT. I want my life to be prolonged to the greatest extent possible, within the standards of accepted medical practice, without regard to my condition, the chances I have for recovery, or the cost of the procedures.

OR

(4) _____ DIRECTIVE IN MY OWN WORDS:

7. STATEMENT OF DESIRES REGARDING TUBE FEEDING:

With respect to Nutrition and Hydration provided by means of a nasogastric tube or tube into the stomach, intestines or veins, I wish to make clear that (INITIAL ONLY ONE):

NW I DO NOT want to receive these forms of artificial nutrition and hydration, and they may be withheld or withdrawn under the conditions given above.

OR

_____ I DO want to receive these forms of artificial nutrition and hydration.

IF YOU DO NOT INITIAL EITHER OF THE ABOVE STATEMENTS, YOUR AGENT WILL NOT HAVE AUTHORITY TO DIRECT THAT NUTRITION AND HYDRATION NECESSARY FOR COMFORT CARE OR ALLEVIATION OF PAIN BE WITHDRAWN.

8. SUCCESSORS:

If an agent named by me dies, becomes legally disabled, resigns, refuses to act, becomes unavailable, or if an agent who is my spouse is divorced or separated from me, I name the following as successors to my agent, each to act alone and successively, in the order named:

A. First Alternate Agent:

Name: Robert A. Goelkel
Address: 116 South Merrill Avenue
Park Ridge, IL 60068
Telephone: (847) 823-7877

B. Second Alternate Agent:

Name: _____
Address: _____
Telephone: _____

9. ADMINISTRATIVE PROVISIONS:

- a. I revoke any prior Health Care Power of Attorney and any provisions relating to health care of any other prior power of attorney.
- b. This Power of Attorney is intended to be valid in any jurisdiction in which it is presented.

10. UNAVAILABILITY OF AGENT:

If at any relevant time, the Agent or Successor Agents named herein are unable or unwilling to make decisions concerning my health care, and those decisions are to be made by a guardian, by the Probate Court, or by a surrogate pursuant to the Adult Health Care Consent Act, it is my intention that the guardian, Probate Court, or surrogate make those decisions in accordance with my directions as stated in this document.

BY SIGNING HERE, I INDICATE THAT I UNDERSTAND THE CONTENTS OF THIS DOCUMENT AND THE EFFECT OF THIS GRANT OF POWERS TO MY AGENT.

I sign my name to this Health Care Power of Attorney on this 21st day of April, 2005. My current home address is:

2412 High Hammock Road
Seabrook Island, SC 29455

Signature: Nancy L. Ward
Print Name: NANCY L. WARD

(Witness Statement, Over)

WITNESS STATEMENT

I declare, on the basis of information and belief, that the person who signed or acknowledged this document (the principal) is personally known to me, that he/she signed or acknowledged this Health Care Power of Attorney in my presence, and that he/she appears to be of sound mind and under no duress, fraud, or undue influence.

I am not related to the principal by blood, marriage or adoption, either as a spouse, a lineal ancestor, descendant of the parents of the principal, or spouse of any of them. I am not directly financially responsible for the principal's medical care. I am not entitled to any portion of the principal's estate upon his/her decease, whether under any will or as an heir by intestate succession, nor am I the beneficiary of an insurance policy on the principal's life, nor do I have a claim against the principal's estate as of this time. I am not the principal's attending physician, nor an employee of the attending physician. No more than one witness is an employee of a health facility in which the principal is a patient. I am not appointed as the Health Care Agent or Successor Health Care Agent by this document.

WITNESS NO. 1:

Jeanne A. Pusey
Signature

Date: 4/21/05

Jeanne A. Pusey
Print Name

Telephone: 843-723-7831

1345 S. Banksdale
Residence Address
Mt. Pleasant SC 29464

WITNESS NO. 2

Magdalena Cruz
Signature

Date: 4-21-05

MAGDALENA CRUZ
Print Name

Telephone: 4860077

325 Marymeade Drive
Residence Address
Summerville, SC 29483

10. Declaration of a Desire for a Natural Death for Stephen D.
Ward

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

**DECLARATION OF A DESIRE
FOR A NATURAL DEATH**

I, **Stephen D. Ward**, Declarant, being at least eighteen (18) years of age and a resident of and domiciled in Charleston County, South Carolina, make this Declaration this 21st day of April, 2005.

I willfully and voluntarily make known my desire that no life-sustaining procedures be used to prolong my dying if my condition is terminal or if I am in a state of permanent unconsciousness, and I declare:

If at any time I have a condition certified to be a terminal condition by two physicians who have personally examined me, one of whom is my attending physician, and the physicians have determined that my death could occur within a reasonably short period of time without the use of life-sustaining procedures or if the physicians certify that I am in a state of permanent unconsciousness and where the application of life-sustaining procedures would serve only to prolong the dying process, I direct that the procedures be withheld or withdrawn, and that I be permitted to die naturally with only the administration of medication or the performance of any medical procedure necessary to provide me with comfort care.

INSTRUCTIONS CONCERNING ARTIFICIAL NUTRITION AND HYDRATION

INITIAL ONE OF THE FOLLOWING STATEMENTS

If my condition is terminal and could result in death within a reasonably short time,

_____ I direct that nutrition and hydration **BE PROVIDED** through any medically indicated means, including medically or surgically implanted tubes.

_____ I direct that nutrition and hydration **NOT BE PROVIDED** through any medically indicated means, including medically or surgically implanted tubes.

INITIAL ONE OF THE FOLLOWING STATEMENTS

If I am in a persistent vegetative state or other condition of permanent unconsciousness,

_____ I direct that nutrition and hydration **BE PROVIDED** through any medically indicated means, including medically or surgically implanted tubes.

_____ I direct that nutrition and hydration **NOT BE PROVIDED** through any medically indicated means, including medically or surgically implanted tubes.

In the absence of my ability to give directions regarding the use of life-sustaining procedures, it is my intention that this Declaration be honored by my family and physicians and any

health facility in which I may be a patient as the final expression of my legal right to refuse medical or surgical treatment, and I accept the consequences from the refusal.

I am aware that this Declaration authorizes a physician to withhold or withdraw life-sustaining procedures. I am emotionally and mentally competent to make this Declaration.

APPOINTMENT OF AN AGENT (OPTIONAL)

1. You may give another person authority to revoke this declaration on your behalf. If you wish to do so, please enter that person's name in the space below.

Name of Agent

with Power to Revoke:

Address:

Telephone Number:

2. You may give another person authority to enforce this declaration on your behalf. If you wish to do so, please enter that person's name in the space below.

Name of Agent

with Power to Enforce:

Address:

Telephone Number:

REVOCATION PROCEDURES

THIS DECLARATION MAY BE REVOKED BY ANY ONE OF THE FOLLOWING METHODS. HOWEVER, A REVOCATION IS NOT EFFECTIVE UNTIL IT IS COMMUNICATED TO THE ATTENDING PHYSICIAN.

- (1) BY BEING DEFACED, TORN, OBLITERATED, OR OTHERWISE DESTROYED, IN EXPRESSION OF YOUR INTENT TO REVOKE, BY YOU OR BY SOME PERSON IN YOUR PRESENCE AND BY YOUR DIRECTION. REVOCATION BY DESTRUCTION OF ONE OR MORE OF MULTIPLE ORIGINAL DECLARATIONS REVOKES ALL OF THE ORIGINAL DECLARATIONS;
- (2) BY A WRITTEN REVOCATION SIGNED AND DATED BY YOUR EXPRESSING YOUR INTENT TO REVOKE;
- (3) BY YOUR ORAL EXPRESSION OF YOUR INTENT TO REVOKE THE DECLARATION. AN ORAL REVOCATION COMMUNICATED TO THE ATTENDING PHYSICIAN BY A PERSON OTHER THAN YOU IS EFFECTIVE ONLY IF:

- (a) THE PERSON WAS PRESENT WHEN THE ORAL REVOCATION WAS MADE;
- (b) THE REVOCATION WAS COMMUNICATED TO THE PHYSICIAN WITHIN A REASONABLE TIME;
- (c) YOUR PHYSICAL OR MENTAL CONDITION MAKES IT IMPOSSIBLE FOR THE PHYSICIAN TO CONFIRM THROUGH SUBSEQUENT CONVERSATION WITH YOU THAT THE REVOCATION HAS OCCURRED;

TO BE EFFECTIVE AS A REVOCATION, THE ORAL EXPRESSION CLEARLY MUST INDICATE YOUR DESIRE THAT THE DECLARATION NOT BE GIVEN EFFECT OR THAT LIFE-SUSTAINING PROCEDURES BE ADMINISTERED;

- (4) IF YOU, IN THE SPACE ABOVE, HAVE AUTHORIZED AN AGENT TO REVOKE THE DECLARATION, THE AGENT MAY REVOKE ORALLY OR BY A WRITTEN, SIGNED, AND DATED INSTRUMENT. AN AGENT MAY REVOKE ONLY IF YOU ARE INCOMPETENT TO DO SO. AN AGENT MAY REVOKE THE DECLARATION PERMANENTLY OR TEMPORARILY.
- (5) BY YOUR EXECUTING ANOTHER DECLARATION AT A LATER TIME.


STEPHEN D. WARD

AFFIDAVIT

Janne A. Pusey
Witness
Mazdolena Cruz
Witness

Subscribed before me by Stephen D. Ward, the Declarant, and subscribed and sworn to before me by Seanne Posey and Magdalena Cruz, the witness, this 21st day of April, 2005.

Frederick J. Reed (SEAL)
Signature of Notary

Notary Public for South Carolina
My commission expires: July 24, 2012

11. Declaration of a Desire for a Natural Death for Nancy L. Ward

DECLARATION OF A DESIRE FOR A NATURAL DEATH

I willfully and voluntarily make known my desire that no life-sustaining procedures be used to prolong my dying if my condition is terminal or if I am in a state of permanent unconsciousness, and I declare:

INSTRUCTIONS CONCERNING ARTIFICIAL NUTRITION AND HYDRATION

If my condition is terminal and could result in death within a reasonably short time,

rw ✓

INITIAL ONE OF THE FOLLOWING STATEMENTS

nw

rw

health facility in which I may be a patient as the final expression of my legal right to refuse medical or surgical treatment, and I accept the consequences from the refusal.

I am aware that this Declaration authorizes a physician to withhold or withdraw life-sustaining procedures. I am emotionally and mentally competent to make this Declaration.

APPOINTMENT OF AN AGENT (OPTIONAL)

1. You may give another person authority to revoke this declaration on your behalf. If you wish to do so, please enter that person's name in the space below.

Name of Agent

with Power to Revoke:

Address:

Telephone Number:

2. You may give another person authority to enforce this declaration on your behalf. If you wish to do so, please enter that person's name in the space below.

Name of Agent

with Power to Enforce:

Address:

Telephone Number:

REVOCATION PROCEDURES

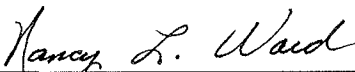
THIS DECLARATION MAY BE REVOKED BY ANY ONE OF THE FOLLOWING METHODS. HOWEVER, A REVOCATION IS NOT EFFECTIVE UNTIL IT IS COMMUNICATED TO THE ATTENDING PHYSICIAN.

- (1) BY BEING DEFACED, TORN, OBLITERATED, OR OTHERWISE DESTROYED, IN EXPRESSION OF YOUR INTENT TO REVOKE, BY YOU OR BY SOME PERSON IN YOUR PRESENCE AND BY YOUR DIRECTION. REVOCATION BY DESTRUCTION OF ONE OR MORE OF MULTIPLE ORIGINAL DECLARATIONS REVOKES ALL OF THE ORIGINAL DECLARATIONS;
- (2) BY A WRITTEN REVOCATION SIGNED AND DATED BY YOUR EXPRESSING YOUR INTENT TO REVOKE;
- (3) BY YOUR ORAL EXPRESSION OF YOUR INTENT TO REVOKE THE DECLARATION. AN ORAL REVOCATION COMMUNICATED TO THE ATTENDING PHYSICIAN BY A PERSON OTHER THAN YOU IS EFFECTIVE ONLY IF:

- (a) THE PERSON WAS PRESENT WHEN THE ORAL REVOCATION WAS MADE;
- (b) THE REVOCATION WAS COMMUNICATED TO THE PHYSICIAN WITHIN A REASONABLE TIME;
- (c) YOUR PHYSICAL OR MENTAL CONDITION MAKES IT IMPOSSIBLE FOR THE PHYSICIAN TO CONFIRM THROUGH SUBSEQUENT CONVERSATION WITH YOU THAT THE REVOCATION HAS OCCURRED;

TO BE EFFECTIVE AS A REVOCATION, THE ORAL EXPRESSION CLEARLY MUST INDICATE YOUR DESIRE THAT THE DECLARATION NOT BE GIVEN EFFECT OR THAT LIFE-SUSTAINING PROCEDURES BE ADMINISTERED;

- (4) IF YOU, IN THE SPACE ABOVE, HAVE AUTHORIZED AN AGENT TO REVOKE THE DECLARATION, THE AGENT MAY REVOKE ORALLY OR BY A WRITTEN, SIGNED, AND DATED INSTRUMENT. AN AGENT MAY REVOKE ONLY IF YOU ARE INCOMPETENT TO DO SO. AN AGENT MAY REVOKE THE DECLARATION PERMANENTLY OR TEMPORARILY.
- (5) BY YOUR EXECUTING ANOTHER DECLARATION AT A LATER TIME.



NANCY L. WARD

AFFIDAVIT

Jeane A. Pusey
 Witness
 Magdalena Cruz
 Witness

Kristen R. West (SEAL)
Signature of Notary

COA 0784

OTHER MATERIAL OR DOCUMENTS

STATE OF SOUTH CAROLINA

IN THE PROBATE COURT

COUNTY OF: CHARLESTON

IN THE MATTER OF:
STEPHEN DAY WARD, JR.
(Decedent)

COPY

CASE NUMBER: 2016-ES-10-_____

***COMPLETE THIS SECTION ONLY IF FILING PETITION
FOR FORMAL TESTACY AND/OR FORMAL APPOINTMENT**

* _____
Petitioner(s)

vs.

* _____
Respondent(s)

APPLICATION FOR INFORMAL

(check any that apply)

- ☒ PROBATE OF WILL
☒ APPOINTMENT

***PETITION FOR FORMAL**

- ☐ TESTACY
☐ APPOINTMENT

If this is a formal filing, please explain on page 3 or attach pleadings pursuant to *SC Rules of Civil Procedure*.

***NOTE: IF THIS IS A FORMAL PROCEEDING, IN ADDITION TO THIS FORM PETITION, YOU MUST ALSO FILE A SUMMONS (FORM SCCA 401PC), AND PAY THE STATUTORY FILING FEE OF \$150.00. A HEARING IN THE PROBATE COURT ON THE PETITION MAY BE REQUIRED.**

I. ALL APPLICANTS/PETITIONERS MUST COMPLETE THIS SECTION.

1. Applicant/Petitioner(s): Please see attached sheet.

Address: _____

Telephone (Work): _____

(Home): _____

(Cell): _____

Email: _____

Relationship to Decedent: _____

2. Decedent Information:

Full Legal Name

(including all known names): Stephen Day Ward, Jr., Stephen D. Ward

Date of Birth: September 11, 1944

Date of Death: September 16, 2016

Age at Date of Death: 72

3. Venue for this proceeding is proper in this County because:

- ☒ Decedent was domiciled in this County at date of death:
Address: 2412 HIGH HAMMOCK ROAD County: CHARLESTON State: South Carolina.
- ☐ Decedent was **not** domiciled in **South Carolina**, but property of Decedent was located in this County at date of death at:
Address: _____ County: _____ State: South Carolina
- ☐ Decedent has a right to take legal action in this County because:

If the above address is the address of a nursing home, prison, or other residential facility, please give the last address of the Decedent prior to entering a facility:

4(a). Names and addresses of beneficiaries (devisees) named in the Will.

FORM #300ES (1/2016)

62-2-504, 62-3-102, 62-3-203, 62-3-301, 62-3-302, 62-3-303, 62-3-308, 62-3-311, 62-3-401, 62-3-402,
62-3-404, 62-3-409, 62-3-414, 62-3-601, 62-3-602, 62-3-704, 62-3-804, 44-23-1090, 44-23-1120

Page 1 of 6

COA 0786

Full Legal Name (including all known names)	Year of Birth	Full Address	Relationship to Decedent
Stephanie Ward Cibinic	7/29/68	246 N. Barton Street, Arlington, VA 22201	Daughter
David D. Ward	9/17/70	12 Highview Drive, Ridgeville, CT 06877	Son
Brian C. Ward	5/29/74	573 North Bridgestone Ave., St. Johns, FL 32259	Son
Elizabeth A. Diemer Wiersum	5/2/65	6639 34th Street, Berwyn, IL 60402	Step-Daughter

☒ See attached for additional devisees (check if applicable).

4(b). Names and addresses of intestate heirs who are not devisees (persons who inherit if Decedent left no Will).

Full Legal Name (including all known names)	Year of Birth	Full Address	Relationship to Decedent
Stephen A. Ward	1/14/90	306 McGowen St., Apt. 1112, Houston, TX 77006	Son
Jeremy W. Ward	1/14/90	1505 NW 60th Street, Apt. 2, Seattle, WA 98107	Son
Mary Kimberly Ward	1/7/25	1220 Creek Watch Trace, Seabrook Island, SC 29455	Wife

☐ See attached for additional intestate heirs (check if applicable).

4(c). Did all of the above persons survive one hundred and twenty (120) hours since the death of Decedent?

☒ YES ☐ NO If no, please explain on page 3.

5. Did Decedent have any change of marital status or the birth or adoption of any children after execution of this Will, if one exists, or has any child of the Decedent been born since his/her death, or is any birth of a child of the Decedent anticipated? (This includes illegitimate children.)

☐ NO ☒ YES If yes, please explain, on page 3.

6. To the best of your knowledge, was the Decedent a patient in a non-private State of South Carolina mental health facility during his/her lifetime?

☒ NO ☐ YES If yes, please explain, on page 3.

7. Has a Guardian or Conservator ever been appointed by a Court for this person?

☒ NO ☐ YES If yes, please explain on page 3.

8. Has a Personal Representative of the Decedent been appointed prior to this date by a Court in this state or elsewhere?

☒ NO ☐ YES If yes, please state details, including name and address of such Personal Representative on page 3.

9. Have you received or are you aware of any Demands for Notice (FORM #111ES) of any probate or appointment proceeding concerning the Decedent that may have been filed in this state or elsewhere?

☒ NO ☐ YES If yes, please state details, including names and addresses on page 3.

10. Have more than ten (10) years passed since the Decedent's death?

☒ NO ☐ YES If yes, please state circumstances authorizing tardy probate on page 3.

11(a). Did the Decedent own probate real estate?

☐ NO ☒ YES If yes, an approximate value of \$TBD (Note: A complete inventory of probate assets with fair market values is to be filed after Personal Representative is appointed.)

11(b). Did the Decedent own probate personal property?

☐ NO ☒ YES If yes, an approximate value of \$TBD (Note: A complete inventory of probate assets with fair market values is to be filed after Personal Representative is appointed.)

12. After the exercise of reasonable diligence, are you aware of any unrevoked Will and/or Codicil(s)?

☒ NO ☐ YES If yes, then proceed to Section II.
If No, then proceed to Section III.

II. IF A WILL EXISTS, PLEASE COMPLETE THIS SECTION.

1. Regarding the Decedent's Will:

- ☒ The original is attached.
- ☐ The original is in the Court's possession.
- ☐ An exemplified (authenticated) copy of a Will probated in another jurisdiction is attached.
- ☐ An exemplified (authenticated) copy of a Will not probated in another jurisdiction is attached.
- ☐ The original of the Will is lost, destroyed, or otherwise unavailable, however, a description of its contents is attached.

2. The execution date of the Will was: April 21, 2005
Codicil(s): _____

3. Is there a memorandum that disposes of tangible personal property?

☒ NO ☐ YES If yes, attach hereto.

4. To the best of your knowledge, do you believe the Will listed above is the Decedent's validly executed last Will?

☒ YES ☐ NO If no, please explain on page 3.

5. To the best of your knowledge, is any witness to the will an "interested witness" (i.e., does the will make any devise to a witness, a witness's spouse, or a witness's issue)?

☒ NO ☐ YES If yes, please explain on page 3.

COMPLETE EXPLANATION(S) FOR QUESTIONS IN SECTIONS I and II HERE.
(If more space is required, use additional sheets.)

The decedent's wife at the time of the making of the will, Nancy Ward, predeceased the decedent, and the decedent subsequently married Mary Ward.

III. IF APPLYING FOR INFORMAL OR FORMAL APPOINTMENT, PLEASE COMPLETE THE FOLLOWING.

1. If the Applicant/Petitioner is not the proposed Personal Representative(s), list name and address of the person you are proposing be appointed as the fiduciary:

2. Priority for appointment of the proposed Personal Representative (whether applicant or nominee) is:

- ☐ named as Primary Personal Representative in Will
- ☒ named as Alternate Personal Representative in Will
- ☐ nominee of Primary Personal Representative in Will
- ☐ nominee of Alternate Personal Representative in Will
- ☐ surviving spouse of Decedent who is devisee of Decedent or nominee of said spouse
- ☐ other devisee of Decedent (describe): _____ or nominee of said devisee
- ☐ surviving spouse of Decedent or nominee of said spouse
- ☐ other heir of Decedent (describe): _____ or nominee of said heir
- ☐ creditor (forty-five (45) days after death must have passed) or nominee of creditor; written statement of claim, FORM 371ES, is attached
- ☐ other (describe): _____

3. List below the name(s) of any other person(s), if any, having an equal or higher priority of appointment than the proposed Personal Representative:

IV. ALL APPLICANTS/PETITIONERS MUST COMPLETE VERIFICATION.

VERIFICATION

The undersigned, being sworn, states that the facts set forth in the foregoing statement are true to the best of the undersigned's knowledge, information and belief, and hereby submits to the Court's jurisdiction in this matter.

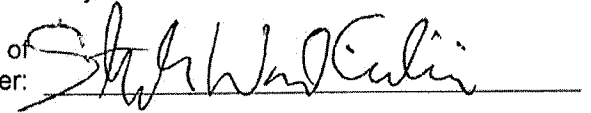
SWORN to before me this 23rd day
of September, 2016



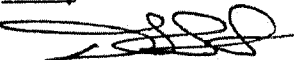
Notary Public for South Carolina

My Commission Expires: 5/20/25

Signature of
Applicant/Petitioner:



SWORN to before me this 23rd day
of Sept, 2016



Notary Public for South Carolina

My Commission Expires: 5/20/25

Signature of Co-
Applicant/Co-Petitioner:



April 21, 2005

☐ Codicil executed 1/17 and
☐ Memorandum n/a

Executed this 30th day of Sept, 2016.

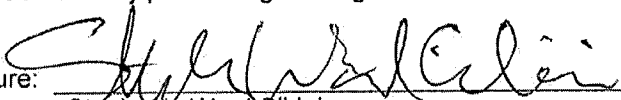
Atkinson Assoc
Probate Court Judge

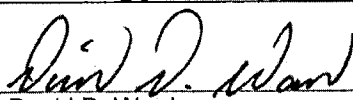
Executed this 20th day of Sept, 2016

Attest: _____
Probate Court Judge

COA 0790

I accept this appointment and agree to perform the duties and discharge the trust of the office of Personal Representative of this estate. I further submit personally to the jurisdiction of the Court in any proceeding relating to the Estate.

Signature: 
Print Name: Stephanie Ward Cibinic
Address: 246 N. Barton Street
Arlington, VA 22201
Telephone (Work):
(Home): 202-486-8297
(Cell):
Email: swardleo@gmail.com

Signature: 
Print Name: David D. Ward
Address: 12 Highview Drive
Ridgeville, CT 06877
Telephone (Work):
(Home): 203-803-3423
(Cell):
Email:

*Attorney: George E. Morrison
Address: McNair Law Firm, P.A.
100 Calhoun Street, Suite 400
Charleston, SC 29401
Telephone: 843-723-7831
Email: gmorrison@mcnair.net

1309016v1

*By completing this information, attorney is designated as attorney of record for assisting Personal Representative until proper withdrawal.

ATTACHMENT TO PETITION FOR PROBATE OF WILL OF STEPHEN D. WARD

1. Applicant/Petitioner: Stephanie Ward Cibinic
 Address: 246 N. Barton Street, Arlington, VA 22201
 Telephone: 202-486-8297
 Email: swardleo@gmail.com
 Relationship to Decedent: Daughter
- Applicant/Petitioner: David D. Ward
 Address: 12 Highview Drive, Ridgeville, CT 06877
 Telephone: 203-803-3423
 Relationship to Decedent: Son
- Applicant/Petitioner: Brian C. Ward
 Address: 573 North Bridgestone Avenue, St. Johns, FL 32259
 Telephone: 904-228-8010
 Relationship to Decedent: Son

4(a). Names and addresses of beneficiaries (devisees) named in the Will.

Full Legal name (including all known names)	Year of Birth	Full Address	Relationship to Decedent
Garett C. Diemer	3/23/71 ~~unknown~~	72 Kingsport Dr., South, Elgin, IL 60177 ~~unknown~~	Step-Son

IV. ALL APPLICANTS/PETITIONERS MUST COMPLETE VERIFICATION.

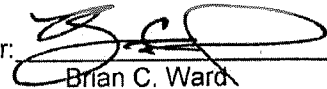
VERIFICATION

The undersigned, being sworn, states that the facts set forth in the foregoing statement are true to the best of the undersigned's knowledge, information and belief, and hereby submits to the Court's jurisdiction in this matter.

Signature of

SWORN to before me this 23rd day
of September, 2016.

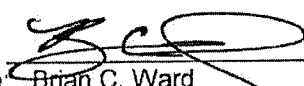
Applicant/Petitioner:


Brian C. Ward


Notary Public for South Carolina
My Commission Expires: 5/20/25

QUALIFICATION AND STATEMENT OF ACCEPTANCE

I accept this appointment and agree to perform the duties and discharge the trust of the office of Personal Representative of this estate. I further submit personally to the jurisdiction of the Court in any proceeding relating to the Estate.

Signature: 
Print Name: Brian C. Ward
Address: 573 North Bridgestone Avenue
 St. Johns, FL 32259
Telephone: 904-228-8010

STATE OF SOUTH CAROLINA

COUNTY OF: CHARLESTON

IN THE MATTER OF:
STEPHEN DAY WARD, JR.
(Decedent)

IN THE PROBATE COURT

INFORMATION TO HEIRS AND DEVISEES

CASE NUMBER: 2016-ES-10-01631

On SEPTEMBER 29, 2016, Application/Petition was made to the Probate Court of CHARLESTON County at (address), 84 BROAD STREET, CHARLESTON, SC 29401, for the (check all that apply):

INFORMAL

FORMAL

☒ PROBATE OF WILL
☒ APPOINTMENT

☐ TESTACY
☐ APPOINTMENT

in the above matter.

(Complete if applicable) The Decedent's Will dated APRIL 21, 2005, Codicil(s) dated _____, and Memorandum(s) dated _____ was/were presented.

Bond HAS ☐ HAS NOT ☒ been filed.

This notice is being sent to persons who have or may have some interest in the estate.

Please note: This form is required to be sent to all potential devisees and heirs of the Decedent. Receipt of this form does not mean that you will inherit from the Decedent. You may review the file in the Probate Court or see an attorney if you desire further information.

My application/petition was granted within the past thirty (30) days on **SEPTEMBER 30, 20 16.**

Applicant/Personal Representative Name: **GEORGE E. MORRISON, ATTORNEY FOR PERSONAL REPRESENTATIVE**

Address: **100 CALHOUN STREET, SUITE 400
CHARLESTON, SC 29401**

Telephone (Work): **(843) 723-7831**

(Home): _____

(Cell): _____

Email: **GMORRISON@MCNAIR.NET**

Co-Applicant/Co-Personal Representative Name: _____

Address: _____

Telephone (Work): _____

(Home): _____

(Cell): _____

Email: _____

Attorney: _____

Address: _____

Telephone: _____

Email: _____

STATE OF SOUTH CAROLINA

COUNTY OF: CHARLESTON

IN THE MATTER OF:
STEPHEN DAY WARD, JR.
(Decedent)

IN THE PROBATE COURT

PROOF OF DELIVERY

CASE NUMBER: 2016-ES-10-01631

On the 11th day of October, 2016, I mailed or delivered the following document(s):

Information to Heirs and Devisees

- ☒ A copy of which is attached hereto and incorporated herein, or
☐ The original of which is on file with the Court.

Delivery was accomplished by the following method (check appropriate box):

- | | |
|--|---|
| ☐ personal delivery | ☒ ordinary first-class mail |
| ☐ certified mail | ☐ registered mail |
| ☐ commercial delivery | ☐ electronic message (Article 7, Trust matters only) |

to each of the following persons at the address shown:

NAME	ADDRESS
STEPHANIE WARD CIBINIC	246 N. BARTON STREET, ARLINGTON, VA 22201
David D. Ward	12 HIGHVIEW DRIVE, RIDGEVILLE, CT 06877
BRIAN C. WARD	573 NORTH BRIDGESTONE AVE., ST. JOHNS, FL 32259
ELIZABETH A. DIEMER WIERSUM	6639 34TH STREET, BERWYN, IL 60402
GARETT C. DIEMER	72 KINGSPOUT DRIVE, SOUTH, ELGIN, IL 60177
STEPHEN A. WARD	306 MCGOWEN ST., APT. 1112, HOUSTON, TX 77006
JEREMY W. WARD	1505 NW 60TH STREET, APT. 2, SEATTLE, WA 98107
MARY KIMBERLY WARD	1220 CREEK WATCH TRACE, SEABROOK ISLAND, SC 29455

SWORN to before me this 11TH day of
OCTOBER, 20 16

Notary Public for South Carolina
My Commission Expires: 7/20/21

Signature: _____
Print Name: GEORGE E. MORRISON
Address: 100 CALHOUN STREET, SUITE 400
CHARLESTON, SC 29401
Telephone (Work): (843) 723-7831
(Home): _____
(Cell): _____
E-mail: GMORRISON@MCNAIR.NET
Relationship to Decedent/Estate: ATTORNEY FOR PERSONAL REPRESENTATIVE

STATE OF SOUTH CAROLINA

IN THE PROBATE COURT

COUNTY OF: Charleston

INVENTORY AND APPRAISEMENT

☒ ORIGINAL☐ SUPPLEMENTARY, AMENDED OR CORRECTED #

(must restate the unchanged information from the original Inventory)

IN THE MATTER OF:

Stephen D. Ward, Jr.

(Decedent)

17 JAN 11 AM 1:53

CASE NUMBER:

File the original Inventory and Appraisal with the Probate Court within ninety (90) days following the fiduciary appointment. A copy shall be sent to each interested person who has demanded it. A Proof of Delivery must be filed with the Court. The gross fair market value of all probate assets, regardless of location (whether in this state or elsewhere), should be listed as of the date of death. Continue on additional sheets if necessary. A Supplementary, Amended, or Corrected Inventory should be utilized for correcting, adjusting or adding to an original inventory, and must restate the unchanged information from the original Inventory. A qualified and disinterested appraiser may be employed to ascertain the value of any asset. If an appraiser is employed, his/her name and address must be indicated with the item or items he/she appraised.

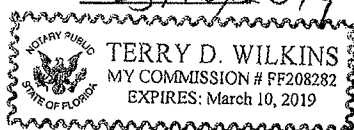
RECAPITULATION

	Non-Probate (OPTIONAL)	Probate
Schedule A - Real Estate		\$411,600
Schedule B - Stocks and Bonds		\$0
Schedule C - Notes Due Decedent and Cash		\$623,160.13
Schedule D - Insurance on Decedent's Life - Part 1 - Payable to Estate		\$0
Part 2 - Payable to Beneficiary	\$	
Schedule E - Jointly Owned Property	\$	
Schedule F - Other Miscellaneous Assets Payable to Estate		\$62,360
Schedule G - Transfers During Decedent's Life	\$	\$0
Schedule H - Powers of Appointment	\$	\$0
Schedule I - Annuities and Retirement Accounts	\$	\$0
TOTAL GROSS VALUE OF PROBATE ESTATE		\$0
ENCUMBRANCES		(\$195,455.28)
TOTAL NET WORTH OF PROBATE ESTATE / PROBATE ESTATE VALUE		\$901,664.85

The undersigned, being sworn, states: That the following schedules contain a complete and accurate inventory and appraisal of all probate real and personal property of this estate so far as the undersigned is informed; that he/she has estimated and/or appraised all listed property at its fair market value, according to the best of his/her knowledge and ability.

SWORN to before me this 4 day of JANUARY 2017

Notary Public for South Carolina

My Commission Expires: 03/10/2019

Personal Representative

Signature:

Print Name: Brian WardAddress: 573 N Bridgestone AveSaint Johns, FL 32259Telephone (Work): 904-359-1284

(Home):

(Cell): 904-228-8010(Email): bcward529@gmail.com

Co-Personal Representative

Signature (if applicable):

Name:

Address:

Telephone (Work):

Telephone (Home):

(Cell):

(Email):

Attorney: George E. MorrisonAddress: 100 Calhoun St, Suite 400Charleston, SC 29401Telephone: 843-723-7831Email: gmorrison@mcnair.net

WHEN COMPLETING THE FOLLOWING SCHEDULES LIST ALL PROBATE ASSETS, REGARDLESS OF LOCATION. ALL OUT-OF-STATE PROBATE ASSETS MUST BE DISCLOSED. NON-PROBATE PROPERTY NEED NOT BE DISCLOSED.

SCHEDULE A – REAL ESTATE. List below any real estate in Decedent's name alone or tenants in common (not as joint with right of survivorship or tenants in the entirety). Describe each property by listing its full address, tax map number, deed book and page, and description consistently (for example: house, lot, buildings, acreage). Also list oil/mineral rights and time shares if it is real property. If none, so state. If the property is encumbered, list the full fair market value of the property here and the encumbrance on the Encumbrance Schedule below. (For jointly owned property with right of survivorship, you may list in Schedule E.)

Item No.	Description	% owned by Decedent	Fair Market Value	Value of Decedent's interest
1.	2412 High Hammock Rd, Seabrook Island, SC 29455 Tax Map Number: Lot 8, Block 24	50	\$820,000	\$410,000
2.	Rio Rancho Estates, NM Tax Map Number: Unit 26, Block 92, Lots 25 and 26	100	\$1,600	\$1,600
3.				
	Tax Map Number:			

TOTAL SCHEDULE A \$ 411,600
(also enter under recapitulation, page 1)

SCHEDULE B – STOCKS AND BONDS. List below all stocks and bonds in the Decedent's name alone or tenants in common (not as joint with right of survivorship). Identify each type of security and the number of shares. If none, so state. (For jointly owned property with right of survivorship, you may list in Schedule E.)

Item No.	Description	Face Value	Appraised Value
1.	NONE		
2.			
3.			
4.			

TOTAL SCHEDULE B \$ 0.00
(also enter under recapitulation, page 1)

SCHEDULE C – CASH, BANK ACCOUNTS, NOTES RECEIVABLES. List all bank accounts owned by Decedent alone or as tenants in common (checking, savings, CDs, money market, brokerage, employment bonus, cash award, final paycheck, etc.), cash on hand, notes payable to Decedent, and survival action proceeds. If none, so state. List each separate account type and institution and last two digits of the account. (For jointly owned property with right of survivorship, you may list in Schedule E.)

Item No.	Description	Value
1.	Schwab 9350-5277	\$256,912.66
2.	Schwab 7340-3895 (Villa Account)	\$366,247.47
3.		

TOTAL SCHEDULE C \$ 623,160.13
(also enter under recapitulation, page 1)

SCHEDULE D - LIFE INSURANCE (If none, so state.)

Part 1 - Life Insurance – List the insurance on the life of the Decedent which is payable to the Estate.

Item No.	Description	Value
1.	NONE	
2.		
3.		

TOTAL PART 1 \$ 0.00
(also enter under recapitulation, page 1)

(If more space is required, insert additional sheets of same size.)

Part 2 (OPTIONAL) - You may list here the insurance on the life of the Decedent which is payable to beneficiaries.

Item No.	Description	Beneficiary	Value
1.			
2.			
3.			

TOTAL PART 2 \$ 0.00
(also enter under recapitulation, page 1)

SCHEDULE E - (OPTIONAL) JOINT WITH RIGHT OF SURVIVORSHIP— You may list below any non-probate property jointly owned by the Decedent with another with right of survivorship. List each separate account type and institution and the last two digits of each account.

Item No.	Description	Joint Owner(s)	Percentage Includible	Value of Decedent's Interest
1.				
2.				
3.				

TOTAL SCHEDULE E \$ 0.00
(also enter under recapitulation, page 1)

SCHEDULE F – OTHER MISCELLANEOUS ASSETS PAYABLE TO ESTATE. List below any tangible personal property, including household goods & furnishings, vehicles, boats/motors/trailers, mobile homes that are not de-titled (Include year/make/model/VIN, if applicable), airplanes, equipment, interest in a partnership or unincorporated business, articles or collections having either artistic or intrinsic value, including coins, guns, artwork, jewelry, etc., and any other miscellaneous probate items not listed elsewhere, including any digital assets. If none, so state. (For jointly owned tangible personal property with right of survivorship, you may list in Schedule E.)

Item No.	Description	Value
1.	2012 Infinity M37S	\$14,500
2.	Household goods and furnishings	\$30,000
3.	Oriental Rugs (30)	\$17,860
4.		
5.		

TOTAL SCHEDULE F \$ 62,360
(also enter under recapitulation, page 1)

NOTE: FOR SCHEDULES G, H, AND I. LIST VALUES ONLY IF PAYABLE TO ESTATE.

SCHEDULE G – TRANSFERS DURING DECEDENT'S LIFE. List any transfers intended to take effect at death if such property is payable to the Estate. You may list in the "Optional" section below any non-probate transfers intended to take effect at death not payable to the Estate, including United States Government Bonds "Payable on Death," accounts which are "Transfer on Death," a trust created by Decedent in which income for life was retained by the Decedent, power to revoke or other incidents of ownership retained by the Decedent, lifetime transfers of real property in which Decedent retained life estate, etc. If none, so state.

List date and type of transfer and list total amount payable to estate:

1.	NONE	
2.		

(OPTIONAL) describe and list amounts not payable to estate:

1.		
2.		

TOTAL SCHEDULE G \$ 0.00
(also enter under recapitulation, page 1)

(If more space is required, insert additional sheets of same size.)

SCHEDULE H – POWERS OF APPOINTMENT. List property, both real and personal, over which Decedent possessed a Power of Appointment whether testamentary or otherwise, if such property is payable to the Estate. You may list property subject to such power if it was not payable to the Estate in the "Optional" section below. If none, so state.

Describe and list total amount payable to estate:

1.	NONE	
2.		

(OPTIONAL) describe and list amounts not payable to estate:

1.		
2.		

TOTAL SCHEDULE H

(also enter under recapitulation, page 1)

\$ 0.00

SCHEDULE I – ANNUITIES AND RETIREMENT ACCOUNTS (IRA's, 401(K), etc.). List any annuities or retirement accounts owned by the Decedent and payable to the Estate. You may list in the "Optional" section below any accounts payable to a beneficiary which is not payable to the Estate.

Describe and list total amount payable to estate:

1.	NONE	
2.		
3.		

(OPTIONAL) describe and list amounts not payable to estate:

1.		
2.		
3.		

TOTAL SCHEDULE I

(also enter under recapitulation, page 1)

\$ 0.00

ENCUMBRANCES (e.g., mortgages, liens, judgments, etc., but not general debts of the estate). List debts of the Decedent secured by assets on the above Schedules and describe the debt and the specific asset encumbered.

Item No.	Schedule & Item Number Encumbered Thereby	Description & Amount
1.	Wells Fargo Mortgage - 0345473698	\$195,455.28
2.		
3.		

TOTAL ENCUMBRANCES

(also enter under recapitulation, page 1)

\$ 195,455.28

(If more space is required, insert additional sheets of same size.)

May 7, 2018

Amanda A. Bailey

abailey@mcnair.net

T 843.444.1107

F 843.444.4729

Via E-mail (irvcondon@charlestoncounty.org)

Via FedEx

The Honorable Irvin G. Condon
Charleston County Probate Court
84 Broad Street
Charleston, SC 29401

Re: In the Matter of: Stephen Day Ward, Jr. (Deceased)
Mary K. Ward, a/k/a Mary Kimberly Ward v. Stephanie Ward Cibinic,
David D. Ward, and Brian C. Ward, Personal Representatives; Court
File No. 2016-ES-10-01631
Our File: 066339.00001

Dear Judge Condon:

Pursuant to your instructions at the close of the hearing on the Petitioner's Claim for Omitted Spousal Share held on April 19, 2018, attached please find Respondent's *proposed* Order Denying the Petitioner's Claim for Omitted Spouse Share.

For your convenience, I will be forwarding via FedEx a complete copy of the case law cited in the proposed order. In addition, we ordered a copy of the transcript and exhibits from the court reporter at the hearing and have referenced the same in preparation of our proposed order.

If the Court would like a copy of the transcript and exhibits, please advise and we would be happy to provide the same.

Very truly yours,

McNAIR LAW FIRM, P.A.



Amanda A. Bailey

AB/dma
Enclosures

McNAIR LAW FIRM, P.A.

Founders Centre

2411 Oak Street, Suite 206

Myrtle Beach, SC 29577

Mailing Address

Post Office Box 336

Myrtle Beach, SC 29578

mcnair.net

cc: Brenna Dickson, Law Clerk (*via email*)
George Morrison, Esq. (*via email*)
Jane A. McFaddin, Esq. (*via email*)

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

IN THE MATTER OF:

Stephen Day Ward, Jr.
(Decedent)

Mary K. Ward, a/k/a Mary Kimberly Ward,

Petitioner,

v.

Stephanie Ward Cibinic, David D. Ward, and Brian
C. Ward, Personal Representatives,

Respondents.

IN THE PROBATE COURT

CASE NO: 2016-ES-10-01631

**ORDER DENYING PETITIONER'S
CLAIM FOR OMITTED SPOUSE**

This matter came before me for a hearing on Mary K. Ward a/k/a Mary Kimberly Ward's Petition for Omitted Spouse Share on April 18, 2018. Appearing at the hearing were Jane McFaddin, Esquire on behalf of Petitioner and Amanda Bailey, Esquire and George Morrison, Esquire, on behalf of the Respondents.

For the reasons set forth herein, I deny Ward's Petition for Omitted Spouse.

PROCEDURAL BACKGROUND

1. Decedent died testate on September 16, 2016.
2. On or about September 29, 2016, Respondents Stephanie Ward Cibinic, David D. Ward, and Brian C. Ward filed a Petition for Informal Probate of Will and Appointment.
3. Respondents were appointed co-personal representatives of the Estate of Stephen Day Ward, Jr.
4. Ann Noble-Kiley, as Conservator for Mary K. Ward, filed a Petition for Omitted Spouse Share on behalf of Petitioner regarding the Estate of Stephen Day Ward, Jr. on or about January 18, 2017.

5. Respondents timely denied the Petition for Omitted Spouse Share alleging that Decedent intentionally omitted Petitioner from his Will and that Decedent provided for Petitioner outside the Will pursuant to S.C. Code Ann. §62-2-301(a)(1) and (2).
6. Respondents moved for summary judgment on the Petition for Omitted Spouse Share on the grounds that it appeared from the Will that the Petitioner's omission was intentional pursuant to S.C. Code Ann. §62-2-301(a)(1). The motion was denied.¹
7. After completing full discovery, a hearing on the Petition for Omitted Spouse Share was held on April 18, 2018.
8. Petitioner was not present at the hearing, but presented Ann Noble-Kiley, her conservator, as a witness in her case-in-chief.
9. Following Petitioner's case-in-chief, Respondents moved for involuntary non-suit, which was denied.
10. Thereafter, Respondents presented their case-in-chief. Respondents were all present at the hearing and presented Brett Bluestein, Esquire, Trisha Ernstrom, Stephanie Ward Cibinic, David D. Ward, and Brian C. Ward as witnesses. Respondents' Exhibits 1-8 were admitted into evidence, as follows:

Exhibit 1 - Last Will and Testament of Stephen D. Ward, April 21, 2005;

Exhibit 2 - Nancy Diemer Trust, April 28, 1998;

Exhibit 3 - Last Will and Testament of Nancy L. Ward, April 21, 2005;

¹ A denial of a motion for summary judgment decides nothing about the merits of the case, but simply decides the case should proceed to trial. The denial of summary judgment does not establish the law of the case, and the issues raised in the motion may be raised again later in the proceedings by a motion to reconsider the summary judgment motion or by a motion for a directed verdict. Ballenger v. Bowen, 313 S.C. 476, 477, 443 S.E.2d 379, 380 (1994) (citations omitted).

Exhibit 4 - Trust Agreement of Stephen D. Ward, April 21, 2005;

Exhibit 5 - First Amendment and Restatement of the Trust Agreement of Nancy Ward, April 21, 2005;

Exhibit 6 - Agreement for Mutual Wills and Trusts, April 21, 2005;

Exhibit 7 - Deed of Distribution dated August 24, 2012, Deed Book 277, Page 483, Re-Rec. Book 277, Page 830; and

Exhibit 8 - Bound Set of Estate Planning Documents for Stephen D. Ward.

11. In lieu of closing statements and with the Parties' consent, the Court requested the Parties submit proposed orders.
12. After reviewing the evidence and proposed orders submitted by both Parties, I find for the Respondents and deny the Petition for Omitted Spouse.

FINDINGS OF FACT

13. At 72 years old, Decedent died testate on September 16, 2016.
14. Petitioner offered only the testimony of the Petitioner's conservator, Ann Noble-Kiley, who testified, in relevant part, that Mary Ward was married to the Decedent at the time of his death. This fact is not in dispute.
15. During his lifetime, Decedent was married four times, and had three biological children, Respondents Stephanie Ward Cibinic, David D. Ward, and Brian C. Ward, with his first wife, Linda Ward, and two adopted children with his second wife, Sally Ward.
16. Decedent did not have any children with his third wife, Nancy Ward, or his fourth wife, Mary Ward, but each wife had adult children of their own prior to their marriages to the Decedent.

17. The April 21, 2005 Last Will and Testament of Stephen D. Ward (“Will”) is the valid Last Will and Testament of Decedent.
18. At the time of the Will, Decedent was married to his third wife, Nancy Ward.
19. Nancy Ward predeceased the Decedent in 2011.
20. In August or September, 2013², Decedent married the Petitioner, his fourth wife, who was 88 years old and approximately 19 years older than the Decedent.
21. At the time of their marriage, among other things, Petitioner owned a home, individually, at 1220 Creek Watch Trace on Seabrook Island and Decedent held an interest in a home, individually, at 2412 High Hammock Road on Seabrook Island³.
22. The Petitioner married the Decedent after his execution of the Will.
23. The Decedent failed to provide for the Petitioner in the Will.
24. Item XIII of the Will incorporates by reference The Agreement for Mutual Wills and Trusts between Stephen D. Ward (“Husband”) and Nancy L. Ward (“Wife”), dated April 21, 2005 (“Agreement for Mutual Wills and Trusts”).
25. The Agreement for Mutual Wills and Trusts provides in pertinent part, as follows:

II. Recitals

2.4 Husband and Wife have executed their Wills and Trusts, copies of which have been annexed hereto as Exhibits 1 through 5.

2.5. The Wills and Trusts of the Parties have been made as they are on the condition that the disposition of the Property be made according to their Wills and Trusts, unless this Agreement is altered, amended or revoked as provided for hereinafter.

² The testimony from Ann Noble-Kiley was that they were married on August 27, 2013. The marriage certificate shows a marriage date of September 7, 2013.

³ The home at 2412 High Hammock Road is owned by Stephen D. Ward, as trustee of the Nancy L. Ward Family Trust, under the First Amendment and Restatement of the Trust Agreement of Nancy L. Ward, pursuant to the Deed of Distribution, Exhibit 7.

2.6. This Agreement is made to insure that the mutual plan of the Parties shall not be altered by acts subsequent to date hereof, except as agreed upon between the Parties.

III. Alteration, Amendment and Revocation of Wills.

3.2 Upon the Predecessor's death, this Agreement and the Survivor's Will and Trust shall become irrevocable and the Survivor shall have no right or power to thereafter alter, amend or revoke this Agreement or his or her Will or Trust.

IV. Survivor's Affirmative Covenants.

4.1 He or she will take such measures as may be necessary or required to maintain his or her Will and Trust in full force until his or her death and as will maintain title to the Property in a form that shall cause the same, at the Survivor's death, to be disposed of according to the terms and provisions of his or her Will and Trust annexed hereto.

4.2 If he or she remarries after the death of the Predecessor, he or she will:

4.2.1 Thereafter ratify his or her Will and Trust in the form and with the provision contained in his or her Will and Trust annexed hereto; and

V. Negative Covenants. The Parties mutually covenant with each other and agree that if he or she is the survivor of them, he or she will not create, commit, permit, or suffer to exist:

5.1 Any condition that would alter the plan of distribution contained in his or her Will or Trust annexed hereto;

5.2 Any condition that would cause the alteration, amendment or revocation of his or her Will or Trust annexed hereto;

5.4 The transfer of the Property, or any part thereof from the Survivor to any other person, including any gift to a spouse, child or relative, provided, nothing herein contained shall be construed as prohibiting him or her from making customary and reasonable gifts to a spouse or child;

5.6 Any transfer of title to the Property, or any part thereof, in such a manner as would cause the Property to be transmitted upon the Survivor's death, by any means other than through the provisions of his or her Will or Trust annexed hereto; and

VI. Form of Amendment or Modification. The ability of one of the Parties to this Agreement to unilaterally rescind and revoke this Agreement and their Will or Trust by giving notice to the non-revoking person before death as permitted in Wilson v. Gordon, 53 S.E. 79 (S.C. 1905), is not a sufficient method to allow the parties to this Agreement to revoke their respective Will or Trust and this Agreement. No agreement between the Parties shall be effective to alter, amend, modify, or revoke this Agreement, unless such Agreement is reduced to writing and signed by both Parties.

26. Section 2.5 and 7.1 of the Agreement for Mutual Wills and Trusts expressly incorporates by reference the following exhibits:

1. Trust Agreement of Stephen D. Ward, April 21, 2005;
2. Last Will and Testament of Stephen D. Ward, April 21, 2005;
3. Nancy Diemer Trust, April 28, 1998;
4. First Amendment and Restatement of Trust Agreement of Nancy L. Ward, April 21, 2005; and
5. Last Will and Testament of Nancy L. Ward, April 21, 2005.

27. In addition, the Trust Agreement for Stephen D. Ward, the Last Will and Testament of Stephen D. Ward, the First Amendment and Restatement of Trust Agreement of Nancy L.

Ward, and the Last Will and Testament of Nancy L. Ward each contain express provisions incorporating by reference the Agreement for Mutual Wills and Trust.

28. Brett Bluestein, Esquire is a South Carolina attorney who, from approximately 2002 through 2008, practiced primarily in the areas of estate planning and corporate law.
29. While in private practice, Bluestein provided legal services to Stephen Ward and his then-wife, Nancy Ward, in 2005, including the preparation the Agreement for Mutual Wills and Trusts for the Decedent.
30. Bluestein testified that an Agreement for Mutual Wills and Trusts is a document used in very limited circumstances involving couples with children from prior marriages, in order to ensure the distribution of assets is made according to the estate plan even in the event one spouse predeceased the other and the other spouse remarried.
31. Bluestein stated that he would not have suggested or offered up an agreement for mutual wills as part of the Decedent's estate plan unless the Decedent intended for his will and trust agreement to be enforced in the event Nancy Ward predeceased him and he subsequently remarried. Bluestein "would not have offered this agreement to mutual clients unless that was exactly what they were wanting to do. Protecting against distribution of their assets after the death of the first spouse."
32. Bluestein clarified that he would not have suggested this document nor offered it up to Nancy Ward or Stephen Ward if it were not crystal clear that their intent in drafting the Agreement for Mutual Wills, their Last Wills and Testaments, and their Trusts Agreement, was to omit any subsequent spouse from inheriting from the surviving spouse's estate.

33. Bluestein testified that he was not aware of any amendments, modifications, or alterations to any of the estate planning documents, nor did Nancy Ward or Stephen Ward reach out to him to do so.
34. Trisha Ernstrom was friends with the Decedent and Nancy Ward during their lifetime.
35. After the 2005 Agreement for Mutual Wills, but prior to Nancy Ward's death in 2011, Ernstrom discussed with the Decedent his and Nancy's estate plan on many occasions. The Decedent stated that he and Nancy had made arrangements through an attorney and intended to provide for their respective children to inherit the house and all their assets.
36. After Nancy Ward passed away, Ernstrom remained friends with the Decedent and discussed his relationship and subsequent marriage to his fourth wife, Petitioner.
37. Ernstrom testified that prior to their marriage, the Decedent and Petitioner each had a home on Seabrook Island. Ernstrom had concerns about the Decedent's decision to marry Petitioner and the marriage's impact on the Decedent's and Nancy Ward's estate plan, and discussed those concerns with him.
38. When Ernstrom and Decedent discussed his marriage with Petitioner, on at least three occasions, Decedent insisted that the marriage to Petitioner was not going to effect the estate plan he and Nancy Ward had planned, that nothing would change, and that "everything was going to stay as he and Nancy had planned".
39. After the Decedent and Petitioner were married in 2013, Petitioner continued to own her own home at 1220 Creek Watch Trace on Seabrook Island, but moved in with the Decedent at 2412 High Hammock Road on Seabrook Island.
40. Respondent Brian Ward is one of the Decedent's children. Brian Ward testified that the Decedent was a grain trader with Cargill, Incorporated for over 33 years prior to retiring in

1999, and was a graduate from Wake Forest College and received his master's degree from the Thunderbird School of Management in Arizona. While his father travelled and moved a great deal during his childhood, the Decedent had property on Seabrook Island since the 1970's that Brian Ward and his siblings would visit during the summers for 20+ years.

41. In 2005 or 2006, Decedent provided Brian Ward a bound copy of his estate planning documents, which included the Agreement for Mutual Wills and its exhibits, which was admitted into evidence without objection as Exhibit 8.
42. Brian Ward discussed these estate planning documents with the Decedent at the time he delivered them in 2005-2006, and then again in 2013, prior to his marriage with Petitioner. The Petitioner objected to testimony on these discussions pursuant to which the Dead Man's Statute was sustained. Respondents proffered the testimony of Brian Ward's discussions with the Decedent.
43. Brian Ward testified that at no time did he observe the Decedent unable to make his own decisions, care for himself, communicate freely, or maintain his finances.
44. After Decedent passed away, Brian Ward, as co-personal representative of the estate, reviewed the Decedent's finances and located assets. Brian Ward testified that a joint BB&T account was held between the Decedent and Petitioner, funded entirely by pension and social security income of the Decedent, and was used to pay the living expenses of both Decedent and Petitioner during his lifetime, tax expenses of Petitioner's property on Seabrook Island in the amount of \$1,600.00, and Petitioner's health care expenses of at least \$7,500.00. The BB&T account was a joint account with rights of survivorship and transferred to Mary Ward outside of the Estate, with a balance of approximately \$4,000.00 upon Decedent's death.

45. In addition, Decedent owned, with rights of survivorship to Petitioner, a time share in Las Vegas with an unknown value, a Toyota Camry lease with an unknown value, and a Seabrook Island Club membership valued at \$17,000, all of which transferred to Petitioner outside of the estate.
46. Brian Ward testified that in his role as co-personal representative, he was able to identify social security and other investment income that Petitioner and during the Decedent's lifetime, but that Petitioner's income was not used to pay Petitioner's and Decedent's living expenses and was not deposited into the BB&T joint account.
47. Brian Ward also testified that he did not receive any documentation that the Decedent amended, revoked, or modified any of the estate planning documents in Exhibit 8, even after marrying the Petitioner.
48. Respondent David Ward, also one of Decedent's children, testified similarly that in 2006, Decedent provided him a bound copy of his estate planning documents, Exhibit 8, and that at no time thereafter was Exhibit 8 amended, ratified, modified, or revoked.
49. David Ward discussed these estate planning documents with the Decedent in 2011 and then again in 2013, prior to his marriage with Mary Ward. The Petitioners objected to testimony on these discussions pursuant to the Dead Man's Statute, which was sustained. Respondents proffered the testimony of David Ward's discussions with the Decedent.
50. Respondent Stephanie Cibinic, Decedent's daughter, also testified similarly that in late 2005 or 2006, Decedent provided her a bound copy of his estate planning documents, Exhibit 8, and that at no time thereafter was Exhibit 8 amended, ratified, modified, or revoked.

51. Cibinic testified, without objection, that Decedent called her in August 2013 prior to his marriage to the Petitioner, told her he was going to get married and said “this does not impact the Will”.

52. Further, over Petitioner’s objection, Cibinic affirmed on cross-examination that the Decedent told her that the Will would be unaffected by his marriage to Petitioner.

CONCLUSIONS OF LAW

53. An action under the omitted spouse statute is an action at law. Green ex rel. Estate of Cottrell v. Cottrell ex rel. Estate of Cottrell, 346 S.C. 53, 60, 550 S.E.2d 324, 328 (Ct. App. 2001).

54. The Omitted Spouse Statute, Section 62–2–301 of the South Carolina Code, provides in relevant part:

(a) If a testator fails to provide by will for his surviving spouse who married the testator after the execution of the will, the omitted spouse, upon compliance with the provisions of subsection (c), shall receive the same share of the estate he would have received if the decedent left no will unless:

(1) *it appears from the will that the omission was intentional*; or

(2) *the testator provided for the spouse by transfer outside the will and the intent that the transfer be in lieu of a testamentary provision is shown by statements of the testator or from the amount of the transfer or other evidence*.

(emphasis supplied).

55. In Green ex rel. Estate of Cottrell, the Court noted that the legislative purpose behind the Probate Code was “(2) *to discover and make effective the intent of a decedent in the distribution of his property*.” Id. (emphasis supplied).

56. A surviving spouse who wishes to qualify as an “omitted spouse” must demonstrate:

- (1) the decedent spouse executed the Will in question prior to the marriage;
- (2) the Will does not provide for her as the surviving spouse;
- (3) the omission was unintentional; and
- (4) the decedent did not provide for the spouse with transfers outside of the Will.

Id. at 60–62, 550 S.E.2d 324, 328–29.

57. The reporter’s comments to the Omitted Spouse Statute specifically contemplates evidence of the Decedent’s intentions from the face of the Will, from the Decedent’s statements, or other evidence. See also The South Carolina Probate Code’s Omitted Spouse Statute and in Re Estate of Timmerman, 50 S.C. L. Rev. 979, 987 (1999) (discussing cases that suggest that looking beyond the language of a will is acceptable when applying the statute and determining if the intentional-omission exclusion applies as extrinsic facts aid in interpretation of the testator's intent).
58. In the present case, it is undisputed that the Petitioner meets the first two elements to qualify as an “omitted spouse”; the Decedent executed the Will prior to his marriage to Petitioner, and the Will does not provide for the Petitioner.
59. However, the Petitioner fails to demonstrate the last two elements, i.e. that (3) the omission was unintentional, and (4) that the Decedent did not provide for Petitioner outside of the Will.
60. With respect to the third element, that “the omission was unintentional”, the plain language of the Will, and all documents incorporated by reference therein, evidence that the omission of Petitioner, or any spouse subsequent to Nancy Ward, was intentional.
61. South Carolina specifically permits an expressed testamentary compact for joint wills, such as the one contained in the Agreement for Mutual Wills, which becomes irrevocable when

one party predeceases. See e.g., Pruitt v. Moss, 271 S.C. 305, 311–12, 247 S.E.2d 324, 327–28 (1978); S.C. Code Ann. §62-2-701 (2014).

62. South Carolina also specifically provides for documents to be incorporated into a will by reference. S.C. Code Ann. §62-2-509 (2014).

63. The Will, and the documents incorporated by reference therein, specified the Decedent’s intent that acts subsequent to the date of the Will, including remarriage, were not to alter the estate plan. See also Uniform Probate Code § 2–301(a)(2) (stating the surviving spouse is not entitled to an intestate share when “the will expresses the intention that it is to be effective notwithstanding any subsequent marriage”).

64. Additionally, testimony outside the four corners of the Will evidence the Decedent’s intent to omit Petitioner, and any spouse subsequent to the Will, from Decedent’s estate. In contemplating marriage to Petitioner, the Decedent expressed that the marriage was not going to effect the estate plan he and Nancy Ward had in 2005, that nothing would change, and that “everything was going to stay as he and Nancy had planned”.

65. Further, in contemplation of marriage to Petitioner and after his marriage to Petitioner, the Decedent did not attempt to revise his estate plan, or seek to set aside the Agreement for Mutual Wills, despite being competent and capable of doing so. This is additional support that the Decedent’s omission of Mary Ward was intentional. See Green ex rel. Estate of Cottrell v. Cottrell ex rel. Estate of Cottrell, 346 S.C. 53, 64–65, 550 S.E.2d 324, 330–31 (Ct. App. 2001); see also In Re: Timmerman, 331 S.C. 455, 459, 502 S.E.2d 920, 922 (Ct. App. 1988) (stating that where Decedent “chose to leave his old will intact” was support that he unintentionally omitted her, and did not intend for his spouse to receive benefits under the omitted spouse statute).

66. Decedent ratified the Will by his verbal affirmations of the Will and his failure to take any action since the Will, Nancy Ward's death and his subsequent remarriage to amend, modify or alter his estate plan documents in Exhibit 8. See e.g. Matter of Estate of Smith, 419 S.C. 11, 117, 796 S.C. 158, 161 (2016) (finding, in the context of undue influence, that where the testator had an unhampered opportunity to revoke a will or codicil but does not change it, the will is not invalidated); Smith v. Whetstone, 209 S.C. 78, 83, 39 S.E.2d 127, 129 (1946) (“[E]ven in cases of such constraint or fear, if when they are over, the testator confirms the will, it is made good.”)
67. As a result, I find that it appears from the Will and other evidence that Decedent's omission of a subsequent spouse, including Petitioner from the Will, was intentional, and hold that Petitioner is not entitled to share in the probate estate of the Decedent as an omitted spouse.
68. With respect to the fourth element, Petitioner must demonstrate to qualify as an omitted spouse, that “that the Decedent did not provide for Petitioner outside of the Will”, the only evidence presented at the hearing was that the Decedent did provide for Petitioner outside of the Will.
69. Decedent provided for Petitioner outside of the Will, during his lifetime, by paying for Petitioner's living expenses, expenses related to Petitioner's own individual home on Seabrook, Petitioner's health care related expenses, and providing for rights of survivorship to the BB&T account, time share, Toyota Camry lease and Seabrook Island Club membership.
70. Evidence of the Decedent's and Petitioner's age difference, their maintenance of separate property and finances during the marriage, the Decedent's use of his income to pay Petitioner's living expenses, as well as Decedent's statements that his marriage to

Petitioner was not intended to impact his 2005 Will and estate plan with Nancy Ward indicates that the transfers Decedent made to Petitioner during his lifetime were intended to provide for the Petitioner outside of the Will.

71. As a result, I find that the Decedent provided for the Petitioner outside of the Will with the intent that these transfers be in lieu of a testamentary provision, and hold that Petitioner is not entitled to share in the probate estate of the Decedent as an omitted spouse.

IT IS THEREFORE ORDERED ADJUDGED AND DECREED, that Petitioner's claim for omitted spouse share is DENIED.

IT IS SO ORDERED.

Dated: May ____, 2018

THE HONORABLE IRVIN G. CONDON

STATE OF SOUTH CAROLINA	)	IN THE PROBATE COURT
	)	
COUNTY OF CHARLESTON	)	CASE NO: 2016-ES-10-01631
	)	
IN THE MATTER OF:	)	
Stephen Day Ward, Jr.	)	
(Decedent)	)	
	)	
Mary K. Ward, a/k/a Mary Kimberly Ward,	)	
	)	CERTIFICATE OF SERVICE
Petitioner,	)	
	)	
v.	)	
	)	
Stephanie Ward Cibinic, David D. Ward, and Brian	)	
C. Ward, Personal Representatives,	)	
	)	
Respondents.	)	

I, Dawn Abernathy, an employee of McNair Law Firm, P.A., certify the following document:

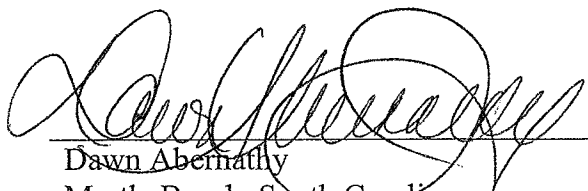
ORDER DENYING PETITIONER’S CLAIM FOR OMITTED SPOUSE

was served on this date via United States Postal Service first class mail and electronic mail upon the following:

Jane A. McFaddin, Esq.
665 St. Andrews Boulevard
Charleston, SC 29407

I certify under penalty of perjury under the laws of the State of South Carolina that the foregoing is true and correct.

Dated: May 7, 2018


Dawn Abernathy
Myrtle Beach, South Carolina